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Presidential Documents

Title 3—

The President

Proclamation 9476 of August 24, 2016

Establishment of the Katahdin Woods and Waters National Monument

By the President of the United States of America

A Proclamation

In north central Maine lies an area of the North Woods known in recent years as the Katahdin Woods and Waters Recreation Area (Katahdin Woods and Waters), approximately 87,500 acres within a larger landscape already conserved by public and private efforts starting a century ago. Katahdin Woods and Waters contains a significant piece of this extraordinary natural and cultural landscape: the mountains, woods, and waters east of Baxter State Park (home of Mount Katahdin, the northern terminus of the Appalachian Trail), where the East Branch of the Penobscot River and its tributaries, including the Wassataquoik Stream and the Seboeis River, run freely. Since the glaciers retreated 12,000 years ago, these waterways and associated resources—the scenery, geology, flora and fauna, night skies, and more—have attracted people to this area. Native Americans still cherish these resources. Lumberjacks, river drivers, and timber owners have earned their livings here. Artists, authors, scientists, conservationists, recreationists, and others have drawn knowledge and inspiration from this landscape.

Katahdin Woods and Waters contains objects of significant scientific and historic interest. For some 11,000 years, Native peoples have inhabited the area, depending on its waterways and woods for sustenance. They traveled during the year from the upper reaches of the East Branch of the Penobscot River and its tributaries to coastal destinations like Frenchman and Penobscot Bays. Native peoples have traditionally used the rivers as a vast transportation network, seasonally searching for food, furs, medicines, and many other resources. Based on the results of archeological research performed in nearby areas, researchers believe that much of the archeological record of this long Native American presence in Katahdin Woods and Waters remains to be discovered, creating significant opportunity for scientific investigation. What is known is that the Wabanaki people, in particular the Penobscot Indian Nation, consider the Penobscot River (including the East Branch watershed) a centerpiece of their culture and spiritual values.

The first documented Euro-American exploration of the Katahdin region dates to a 1793 survey commissioned by the Commonwealth of Massachusetts. After Maine achieved statehood in 1820, Major Joseph Treat, guided by John Neptune of the Penobscot Tribe, produced the first detailed maps of the region. The Maine Boundary Commission authorized a survey of the new State in 1825, for which surveyor Joseph C. Norris, Sr., and his son established the "Monument Line," which runs through Katahdin Woods and Waters and serves as the State's east-west baseline from which township boundaries are drawn.

By the early 19th century until the late 20th century, logging was a way of life throughout the area, as exemplified by the history of logging along the Wassataquoik Stream. To access the upstream forests, a tote road was built on the Wassataquoik's north bank around 1841; traces of the old road can still be seen in places. The earliest loggers felled enormous white pines and then "drove" them down the tumultuous stream. Beginning in the 1880s, after the choice pines were gone, the loggers switched to spruce long logs, and built camps, depots, and many dams on the Wassataquoik to control its flow for the log drives. Remnants of the Dacey and Robar Dams have been found, and discovery of more logging remnants and historic artifacts is likely. Log driving was dangerous, and many men died on the river and were buried nearby. A large fire in 1884 damaged logging operations on the Wassataquoik, and an even larger fire in 1903 put an end to the long log operations. Pulpwood operations resumed in 1910 but ceased in 1915. Other streams, like Sandy Stream, have similar logging histories.

The East Branch of the Penobscot River and its major tributaries served as a thoroughfare for huge log drives headed toward Bangor. Log drives ended (based primarily on environmental concerns) in the 1970s, after which the timber companies relied on trucking and a network of private roads they started to build in the 1950s.

In the 1800s, the infrastructure that developed to support the logging industry also drew hunters, anglers, and hikers to the area. In the 1830s, within 2 miles of one another on the eastern side of the Penobscot East Branch, William Hunt and Hiram Dacey established farms to serve loggers, which soon also served recreationists, scientists, and others who wanted to explore the Katahdin region or climb its mountains. Just across the East Branch from the Hunt and Dacey Farms (the latter now the site of Lunksoos Camps) lies the entrance to the Wassataquoik Stream. In 1848, the Reverend Marcus Keep established what is still called Keep Path, running along the Wassataquoik to Katahdin Lake and on to Mount Katahdin. From that time until the end of the 19th century, the favored entryway to the Katahdin region started on the east side of Mount Katahdin with a visit to Hunt or Dacey Farm, then crossed the East Branch and ascended the valley of the Wassataquoik Stream.

Henry David Thoreau—who made the "Maine Woods" famous through his publications—approached from the headwaters of the East Branch to the north. With his Penobscot guide Joe Polis and companion Edward Hoar in 1857, on his last and longest trip to the area, he paddled past Dacey Farm with just a brief stop at Hunt Farm. He wrote about his two nights in the Katahdin Woods and Waters area—the first at what he named the "Checkerberry-tea camp," near the oxbow just upriver from Stair Falls, and the second on the river between Dacey and Hunt Farms where he drank hemlock tea.

During his 1879 Maine trip on which he summited Mount Katahdin, Theodore Roosevelt followed the route across the East Branch and up the Wassataquoik. As Roosevelt later recalled, he lost one of his hiking boots crossing the Wassataquoik but, undaunted, completed the challenging trek in moccasins. Many including Roosevelt himself have observed that his several trips to the Katahdin region in the late 1870s had a significant impact on his life, as he overcame longstanding health problems, gained strength and stamina, experienced the wonder of nature and the desire to conserve it, and made friends for life from the Maine Woods.

Native Mainer Percival P. Baxter, too, followed this route on the 1920 trip that solidified his determination to create a large park from this landscape. Burton Howe, a Patten lumberman, organized this trip of Maine notables, who stayed at Lunksoos Camps before their ascent via the established route. As a State representative, senator, and governor, Baxter had proposed legislation to create a Mount Katahdin park in commemoration of the State's centennial, and the 1920 trip cemented his profound appreciation of the landscape. Spurned by the Maine legislature, Baxter devoted his life to acquiring 28 parcels of land, largely from timber companies who had heavily logged them, and donated them to the State with management instructions and an endowment, resulting in the establishment of Baxter State Park.

Artists and photographers have left indelible images of their time spent in the area. In 1832, John James Audubon canoed the East Branch and sketched natural features for his masterpiece *Birds of America.* Frederic

Edwin Church, the preeminent landscape artist of the Hudson River School, first visited the area in the 1850s, and in 1877 invited his landscape-painter colleagues to join him on a well-publicized expedition from Hunt Farm up the Wassataquoik Stream to capture varied views of Mount Katahdin and environs. In the early 1900s, George H. Hallowell painted and photographed the log drives on the Wassataquoik Stream, and Carl Sprinchorn painted logging activities on the Seboeis River.

Geologists were among the earliest scientists to visit the area. While surveys were done in the 1800s, in-depth geological research and mapping of the area did not begin until the 1950s. These mid-20th century geologists found bedrock spanning over 150 million years of the Paleozoic era, revealing a remarkably complete exposure of Paleozoic rock strata with well-preserved fossils. The lands west of the Penobscot East Branch are dominated by volcanic and granitic rock from the Devonian period, mostly Katahdin Granite but also Traveler Rhyolite, a light-colored volcanic rock that is similar in composition to granite. The oldest rock in Katahdin Woods and Waters, a light greenish-gray quartzite interlayered with slate from the early Cambrian period (over 500 million years ago), can be observed along the riverbank of the Penobscot East Branch for over 1,000 feet at the Grand Pitch (a river rapid). This rock is part of the Weeksboro-Lunksoos Lake anticline, a broad upward fold of rocks originally deposited horizontally, which is evidence of mountain-building tectonics. The fold continues north along the river and then turns northeast toward Shin Pond, exposing successive bands of younger Paleozoic rock of both volcanic and sedimentary origin on either side of the structure.

Various formations in the area provide striking visual evidence of marine waters in Katahdin Woods and Waters during the geologic periods that immediately followed the Cambrian period. For example, Owen Brook limestone, an outcrop of calcareous bedrock west of the Penobscot East Branch containing fossil brachiopods, is of coral reef origin. Pillow lavas, such as those near the summit of Lunksoos Mountain, were produced by underwater eruptions. Haskell Rock, the 20-foot-tall pillar in the midst of a Penobscot East Branch rapid, is conglomerate bedrock that suggests a time of dynamic transition from volcanic islands to an ocean with underwater sedimentation. This conglomerate, deposited about 450 million years ago, contains volcanic and sedimentary stones of various sizes, and occurs in outcrops and boulders in several locations.

The area's geology also provides prominent evidence of large and powerful earth-changing events. During the Paleozoic era (541 to 252 million years ago), mountain-building events contributed to the rise of the primordial Appalachian Mountain range and the amalgamation of the supercontinent Pangaea. Following the last mountain-building event, significant erosion reshaped the topography, helping to expose the cores of volcanoes, the Katahdin pluton, and the structure of the previous mountain-building events. About 200 million years ago, Pangaea began splitting apart as the Atlantic Ocean appeared and North America, Europe, and Africa formed. Today, the International Appalachian Trail, a long-distance hiking trail, seeks to follow the ancestral Appalachian-Caledonian Mountains on both sides of the Atlantic, starting at Katahdin Lake in Baxter State Park near the northern end of the domestic Appalachian Trail, traversing Katahdin Woods and Waters for about 30 miles, and proceeding through Canada for resumption across the Atlantic.

In more recent geological history, during the approximately 2.5 million year-long Pleistocene epoch that ended approximately 12,000 years ago, repeated glaciations covered the region, eroding bedrock and shaping the modern landscape. Glacial till from the most recent glaciations underlies much of the area's soil, moraines occur in several locations, and glacial erratics are common. Prominent eskers—long, snaking ridges of sand and gravel deposited by glacial meltwater—occur along most of the Penobscot East Branch and the Wassataquoik Stream. Glacial landforms, glacial scoured bedrock, and the lake sediments in the area, deposited only since the retreat of the last glaciers, record a history of intense climate change that gave rise to the modern topography of the area.

This post-glacial topography is studded with attractive small mountains, including some like Deasey, Lunksoos, and Barnard, that offer spectacular views of Mount Katahdin. Katahdin Woods and Waters abuts much of Baxter State Park's eastern boundary, extending the conservation landscape through shared mountains, streams, corridors for plants and animals, and other natural systems.

Among the defining natural features of Katahdin Woods and Waters is the East Branch of the Penobscot River system, including its major tributaries, the Seboeis River and the Wassataquoik Stream, and many smaller tributaries. Known as one of the least developed watersheds in the northeastern United States, the Penobscot East Branch River system has a stunning concentration of hydrological features in addition to its significant geology and ecology. From the northern boundary of Katahdin Woods and Waters, the main stem of the East Branch drops over 200 feet in about 10 miles through a series of rapids and waterfalls—including Stair Falls, Haskell Rock Pitch, Pond Pitch, Grand Pitch, the Hulling Machine, and Bowlin Falls.

After Bowlin Brook, the main stem declines more gently south toward Whetstone Falls and below, embroidered with many side channels and associated floodplain forests and open streamshores. Of the two major tributaries, the Seboeis River flows in from the east, and the Wassataquoik Stream from the west, the latter dropping over 500 feet in its approximately 14-mile wild run from the border of Baxter State Park to its confluence with the Penobscot East Branch main stem.

The extraordinary significance of the Penobscot East Branch River system has long been recognized. A 1977 Department of the Interior study determined that the East Branch of the Penobscot River, including the Wassataquoik Stream, qualifies for inclusion in the National Wild and Scenic Rivers System based on its outstandingly remarkable values, and a 1982 Federal-State study of rivers in Maine determined that the Penobscot East Branch River System, including both the Wassataquoik Stream and the Seboeis River, ranks in the highest category of natural and recreational rivers and possesses nationally significant resource values.

In recent years, a multi-party public-private project has taken steps to reconnect the Penobscot River with the sea through the removal and retrofitting of downstream dams. This river restoration will likely further enhance the integrity of the Penobscot East Branch river system, and provide opportunities for scientific study of the effects of the restoration on upstream areas within Katahdin Woods and Waters. It will also allow federally endangered Atlantic salmon to return to the upper reaches of the river known in the Penobscot language as "Wassetegweweck," or "the place where they spear fish." The return of ocean-run Atlantic salmon to this watershed would complement the exceptional native brook trout fishery for which Katahdin Woods and Waters is known today.

Katahdin Woods and Waters possesses significant biodiversity. Spanning three ecoregions, it displays the transition between northern boreal and southern broadleaf deciduous forests, providing a unique and important opportunity for scientific investigation of the effects of climate change across ecotones. The forests include mixed hardwoods like sugar maple, beech, and yellow birch; mixed forests with hardwoods, hemlock, and white pine; and spruce-fir forests with balsam fir, red spruce, and birches. In wetland areas, black spruce, white spruce, red maple, and tamarack dominate.

Although significant portions of the area have been logged in recent years, the regenerating forests retain connectivity and provide significant biodiversity among plant and animal communities, enhancing their ecological resilience. With the complex matrix of microclimates represented, the area likely contains the attributes needed to sustain natural ecological function in the face of climate change, and provide natural strongholds for species into the future. These forests also afford connections and scientific comparisons with the forests on adjacent State land, including Baxter State Park, which was logged heavily before its parcel-by-parcel purchase by former Governor Percival Baxter between 1931 and 1963.

Of particular scientific significance are the number and quality of small and medium-sized patch ecosystems throughout the area, tending to occur in less common topography that is often relatively remote or inaccessible. Hilltops and barrens often protect rare flora and fauna, such as the blueberry-lichen barren and associated spruce-heath barren found between Robar and Eastern Brooks, and the three-toothed cinquefoil-blueberry low summit bald atop Lunksoos Mountain, where rattlesnake hawkweed can be found. Cliffs and steep slopes, like those present along the ridge from Deasey Mountain to Little Spring Brook Mountain and on the eastern sides of Billfish and Traveler Mountains, harbor exemplary rock outcrop ecosystems that often include flora of special interest, such as fragrant cliff wood-fern and purple clematis. Ravines and coves can support enriched forests like the maple-basswood-ash community found below the eastern cliffs of Lunksoos Mountain, with trees over 250 years old and associated rare plants including squirrel-corn. The Appalachian-Acadian rivershore ecosystems of the Penobscot East Branch and its two major tributaries are considered exemplary in Maine, with occurrences of beautiful silver maple floodplain forest and hardwood river terrace forest—rare and imperiled natural communities, respectively, in the State. A nationally significant diversity of high quality wetlands and wet basins occurs throughout Katahdin Woods and Waters, including smaller streams and brooks, ponds, swamps, bogs, and fens. Patch forests of various types also occur throughout the area, such as a red-pine woodland forest on small hills and ridges amid the large Mud Brook Flowage wetland in the southwestern section.

The expanse of Katahdin Woods and Waters, augmented by its location next to other large conservation properties including Baxter State Park and additional State reservations, supports many wide-ranging wildlife species including ruffed grouse, moose, black bear, white-tailed deer, snowshoe hare, American marten, bobcat, bald eagle, northern goshawk, and the federally threatened Canada lynx. Seventy-eight bird species are known to breed in the area, and many more bird species use it. Visitation and study of the area have been limited to date, as compared with other areas like Baxter State Park, and many more species of birds and other wildlife may be present.

Certain wildlife species are known to occur in specific patch ecosystems in the area, such as the short-eared owl in hilltops and barrens, and the silver-haired bat and the wood turtle in floodplain forests. Mussels such as the tidewater mucket and yellow lampmussel live in some of the brooks and streams, and rare invertebrates like the copper butterfly, pygmy snaketail dragonfly, Tomah mayfly, and Roaring Brook mayfly inhabit some of its bogs and fens.

Katahdin Woods and Waters's daytime scenery is awe-inspiring, from the breadth of its mountain-studded landscape, to the channels of its free-flowing streams with their rapids, falls, and quiet water, to its vantages for viewing the Mount Katahdin massif, the "greatest mountain." The area's night skies rival this experience, glittering with stars and planets and occasional displays of the aurora borealis, in this area of the country known for its dark sky.

WHEREAS, section 320301 of title 54, United States Code (known as the "Antiquities Act"), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS, for the purpose of establishing a national monument to be administered by the National Park Service, Elliotsville Plantation, Inc. (EPI), has donated certain lands and interests in land within Katahdin Woods and Waters to the Federal Government;

WHEREAS, the Roxanne Quimby Foundation has established a substantial endowment with the National Park Foundation to support the administration of a national monument;

WHEREAS, Katahdin Woods and Waters is an exceptional example of the rich and storied Maine Woods, enhanced by its location in a larger protected landscape, and thus would be a valuable addition to the Nation's natural, historical, and cultural heritage conserved and enjoyed in the National Park System;

WHEREAS, it is in the public interest to preserve and protect the historic and scientific objects in Katahdin Woods and Waters;

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the objects identified above that are situated upon lands and interests in lands owned or controlled by the Federal Government to be the Katahdin Woods and Waters National Monument (monument) and, for the purpose of protecting those objects, reserve as a part thereof all lands and interests in lands owned or controlled by the Federal Government within the boundaries described on the accompanying map entitled, "Katahdin Woods and Waters National Monument," which is attached to and forms a part of this proclamation. The reserved Federal lands and interests in lands encompass approximately 87,500 acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries described on the accompanying map are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing.

The establishment of the monument is subject to valid existing rights, including the November 29, 2007, "Access Agreement" between EPI and the State of Maine, Department of Conservation that provides for certain public snowmobile use on specified parcels, and certain reservations of rights for Elliotsville Plantation, Inc., in specified parcels. If the Federal Government acquires any lands or interests in lands not owned or controlled by the Federal Government within the boundaries described on the accompanying map, such lands and interests in lands shall be reserved as a part of the monument, and objects identified above that are situated upon those lands and interests in lands shall be part of the monument, upon acquisition of ownership or control by the Federal Government.

The Secretary of the Interior (Secretary) shall manage these lands through the National Park Service, pursuant to applicable authorities and consistent with the valid existing rights and the purposes and provisions of this proclamation. As provided in the deeds, the Secretary shall allow hunting by the public on the parcels east of the East Branch of the Penobscot River in accordance with applicable law. The Secretary may restrict hunting in designated zones and during designated periods for reasons of public safety, administration, or resource protection. This proclamation will not otherwise affect the authority of the State of Maine with respect to hunting.

The Secretary shall prepare a management plan to implement the purposes of this proclamation, with full public involvement, within 3 years of the date of this proclamation. The Secretary shall use available authorities, as appropriate, to enter into agreements with others to address common interests and promote management needs and efficiencies.

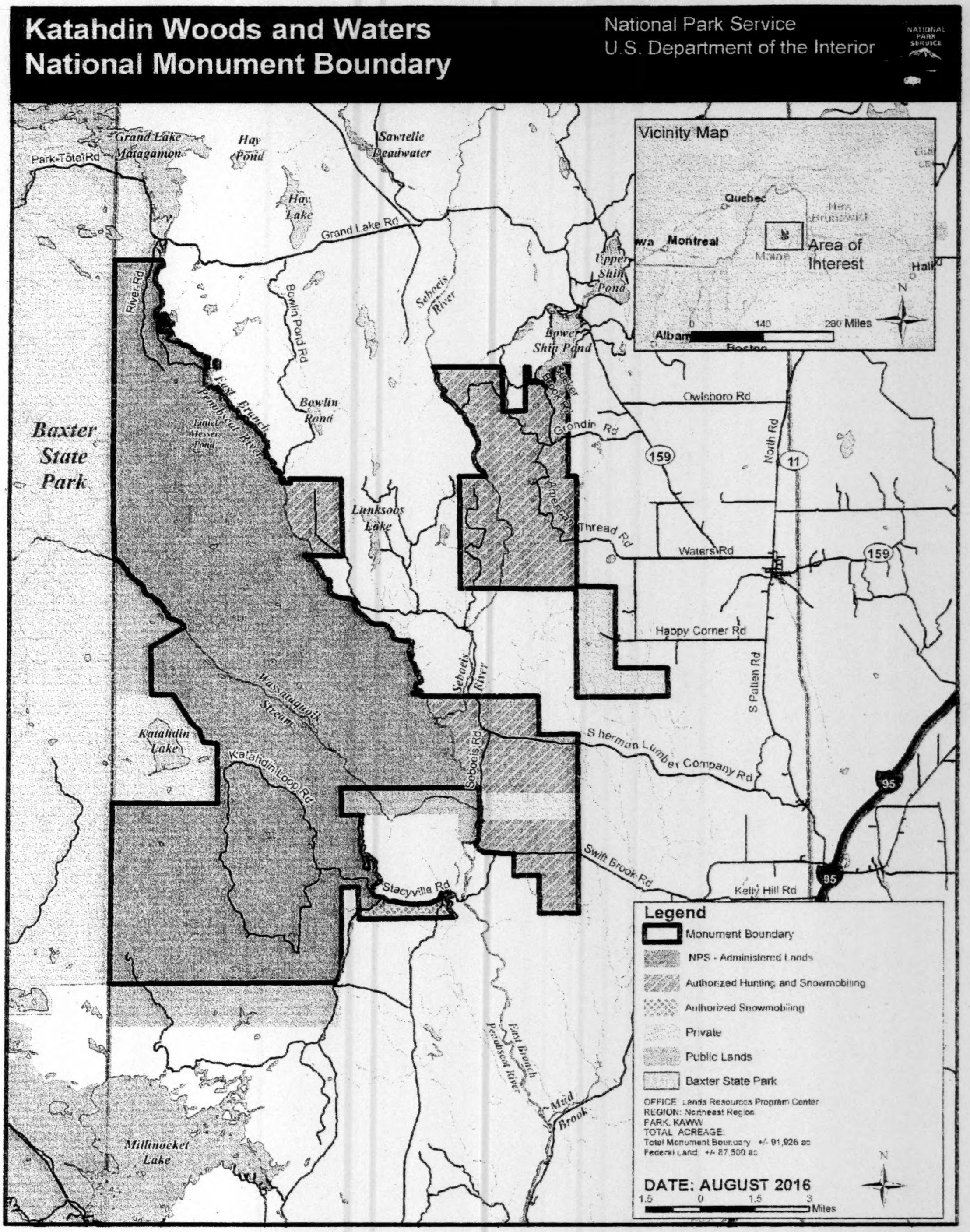
Nothing in this proclamation shall be deemed to enlarge or diminish the rights of any Indian tribe. The Secretary shall, to the maximum extent permitted by law and in consultation with Indian tribes, ensure the protection of Indian sacred sites and cultural sites in the monument and provide access to the sites by members of Indian tribes for traditional cultural and customary uses, consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996) and Executive Order 13007 of May 24, 1996 (Indian Sacred Sites).

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

Nothing in this proclamation shall preclude the use of existing low level Military Training Routes, consistent with applicable Federal Aviation Administration regulations and guidance for overflights of military aircraft, consistent with the care and management of the objects to be protected.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of August, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.


Katahdin Woods and Waters
National Monument Boundary
National Park Service
U.S. Department of the Interior
Vicinity Map
Quebec
Montreal
Maine
Area of Interest
0 140 280 Miles
Grand Lake Matagamon
Park-Tote Rd
Hay Pond
Sawtelle Deadwater
Hay Lake
Grand Lake Rd
Seboeis River
Upper Shin Pond
Lower Shin Pond
River Rd
Bowlin Pond Rd
East Branch Penobscot River
Little Messer Pond
Bowlin Pond
Baxter State Park
Owlsboro Rd
Grondin Rd
159
North Rd
11
Lunksoos Lake
Thread Rd
Waters Rd
Happy Corner Rd
S Pattern Rd
Wassataquoik Stream
Katahdin Lake
Katahdin Loop Rd
Seboeis Rd
Sherman Lumber Company Rd
95
Swift Brook Rd
Stacyville Rd
Kelly Hill Rd
East Branch Penobscot River
Mud Brook
Millinocket Lake
Legend
Monument Boundary
NPS - Administered Lands
Authorized Hunting and Snowmobiling
Authorized Snowmobiling
Private
Public Lands
Baxter State Park
OFFICE: Lands Resources Program Center
REGION: Northeast Region
PARK: KAWW
TOTAL ACREAGE:
Total Monument Boundary +/- 91,926 ac
Federal Land: +/- 87,500 ac
DATE: AUGUST 2016
1.5 0 1.5 3 Miles
N

[FR Doc. 2016–20786
Filed 8–26–16; 8:45 a.m.]
Billing code 4310–10–C

Rules and Regulations

Federal Register
Vol. 81, No. 167
Monday, August 29, 2016

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 11

[Docket No. FAA–2016–9064; Amdt. No. 11–61]

RIN 2120–AJ60

Approval of Information Collections for Operation and Certification of Small Unmanned Aircraft Systems

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: On June 28, 2016, the FAA published a final rule entitled Operation and Certification of Small Unmanned Aircraft Systems (81 FR 42063) which will result in new information collection requirements. This rule updates the FAA's list of OMB control numbers to display the control numbers associated with the approved information collection activities in the final rule.

DATES: Effective August 29, 2016.

FOR FURTHER INFORMATION CONTACT: Everette Rochon, Manager, Commercial Operations Branch, AFS–820, Flight Standards Service, Federal Aviation Administration, 55 M Street SE., 8th Floor, Washington, DC 20003; telephone 1–844–FLY–MYUAS; email *UAShelp@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On June 28, 2016, the FAA and the Office of the Secretary of Transportation published a final rule entitled Operation and Certification of Small Unmanned Aircraft Systems. The rule adds a new part 107 to Title 14 Code of Federal Regulations (14 CFR) to allow for routine civil operation of small unmanned aircraft systems (UAS) in the NAS and to provide safety rules for those operations. The final rule resulted in new and revised information collection requirements.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted these information collection amendments to OMB for its review. On August 12 and 15, 2016, OMB approved the information collection requests. The pertinent OMB control numbers are 2120–0005, 2120–0021, 2120–0027, 2120–0767, and 2120–0768.

Updating OMB Control Numbers in Part 11

The FAA lists OMB control numbers assigned to its information collection activities in 14 CFR 11.201(b). Accordingly, this final rule updates 14 CFR 11.201(b) to display OMB control numbers 2120–0005, 2120–0021, 2120–0027, 2120–0767, and 2120–0768 associated with the information collection activities in the final rule, Operation and Certification of Small Unmanned Aircraft Systems. *See* 81 FR 42063. This final rule also removes from 14 CFR 11.201(b) the OMB control numbers for 14 CFR parts 108 and 109, as those parts were removed by a joint FAA and Transportation Security Administration final rule, Civil Aviation Security Rules, published on February 22, 2002. *See* 67 FR 8340.

Because this rule concerns agency organization, procedure or practice, the FAA finds that the notice and public procedures under 5 U.S.C. 553(b)(3)(A) are unnecessary. For the same reason, the FAA finds good cause exists under 5 U.S.C. 553(d)(3) to make the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing the Federal Aviation Administration amends Chapter I of Title 14 Code of Federal Regulations as follows:

PART 11—GENERAL RULEMAKING PROCEDURES

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, and 46102.

■ 2. In § 11.201(b), revise the entry for part 107 and remove the entries for parts 108 and 109 to read as follows:

§ 11.201 Office of Management and Budget (OMB) control numbers assigned under the Paperwork Reduction Act.

* * * * *

(b) * * *

14 CFR part or section identified and described	Current OMB control No.
* * *	* *
Part 107	2120–0005, 2120–0021, 2120–0027, 2120–0767, 2120–0768.
* * *	* *

Issued in Washington, DC, under the authority provided by 49 U.S.C. 106(f) and 44701(a) on August 24, 2016.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2016–20687 Filed 8–26–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1, 100, 101, and 104

[Docket No. FDA–2016–N–0011]

Food Labeling; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the food labeling regulations by redesignating a provision, updating any references to that provision to reflect the redesignation, and revising the section heading. The rule does not alter the content or application of the redesignated provision in any substantive manner. This action is editorial in nature and is intended to provide clarity and consistency to our regulations.

DATES: This rule is effective August 29, 2016.

FOR FURTHER INFORMATION CONTACT: Carole Adler, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2371.

SUPPLEMENTARY INFORMATION:

I. Background

The Fair Packaging and Labeling Act (FPLA) (15 U.S.C. 1451 *et seq.*) requires certain consumer commodities sold in interstate commerce to be honestly and informatively labeled to facilitate value comparisons and enable consumers to make informed choices. FDA administers and enforces the FPLA with respect to drugs, cosmetics, medical devices, and certain foods. Pursuant to our authority under FPLA, FDA issued certain food labeling regulations, including specifications regarding the statement of identity and the net quantity of contents statement, which must be present on the labels of most packaged foods. Our regulations affecting the declaration of a food product's net quantity of contents are currently located in § 101.105 (21 CFR 101.105). Section 101.105 specifies how the net quantity of contents must be expressed on the package, including the required units of measurement, wording, typeface, and size to be used in the declaration, as well as the location of the declaration on the label or package. Currently, § 101.105 requires that the units of measurement be expressed using the most appropriate units of the customary inch/pound (avoirdupois) system carried out to not more than two decimal places, as applicable.

In the **Federal Register** of May 21, 1993 (58 FR 29716), we proposed to amend our food labeling regulations to require that the net quantity of contents declaration be expressed using the most appropriate units of both imperial units (inches/pounds) and the metric system (International System of Units (SI)). The rule also proposed to provide examples of the quantity of contents declaration, include the SI equivalents to the avoirdupois terms used in the regulation, provide a specific conversion chart for use in calculating the conversion between the two systems of measurement, include SI terminology, provide exemptions from SI labeling requirements, permit the expression of the net quantity of contents to be carried out up to three decimal places, and make the SI declaration of the net quantity of contents on random weight packages optional. Additionally, the rule proposed certain technical amendments, including redesignating § 101.105 as new § 101.7, revising the section heading to correct the title of the section, and making other editorial changes to the net quantity of contents regulations. In the **Federal Register** of April 22, 2003 (68 FR 19766), we announced our intent to withdraw the proposed rule, along with several other unrelated proposed actions that had been published more than 5 years before the withdrawal, but never finalized. The withdrawal was part of an overall regulatory reform initiative to reduce our regulatory backlog and focus our resources on higher priority regulations.

Through this final rule, we are making some of the same technical amendments to the declaration of net contents provision that were proposed in 1993. However, we are not proposing at this time to reinstitute rulemaking proceedings concerning the remaining amendments proposed in 1993, such as those pertaining to the declaration of net quantity in SI units or those modifying the expression of net quantity in decimal fractions.

II. Provisions of Technical Amendments

We are making technical amendments in our regulations at parts 1, 100, 101, and 104 (21 CFR parts 1, 100, 101, and 104) to redesignate § 101.105 as new § 101.7, update references in other provisions to reflect this redesignation, and revise the section heading of the redesignated provision. Nothing in these technical amendments is to be construed as modifying the applicability of the current regulations affecting the declaration of net quantity of contents.

A. Redesignation

FDA is amending the food labeling provisions in § 101.105 by redesignating § 101.105 as new § 101.7. Section 101.105 is currently located in part 101, subpart G, which is entitled "Exemptions From Food Labeling Requirements." However, § 101.105 contains no information pertaining to when a food is exempt from a declaration of the net quantity of contents. Instead, § 101.105 establishes general provisions for the declaration of the statement of net quantity of contents on the labels of most packaged foods. By redesignating § 101.105 as new § 101.7, we are moving the provision to subpart A, entitled "General Provisions." Subpart A provides general food labeling regulations and is a more appropriate location for a provision regulating the declaration of net quantity of contents.

B. Revising Section Heading

We also are revising the section heading of new § 101.7 to read: "Declaration of net quantity of contents" instead of "Declaration of net quantity of contents when exempt." The revised heading, by removing any reference to exemptions, is more reflective of the section's general provisions for the declaration of the statement of net quantity of contents on all food labels. The revised heading does not alter the substance of the provision.

C. Revising References

Several existing regulations refer to § 101.105. Therefore, because we are redesignating § 101.105 as a new § 101.7, we are making corresponding editorial changes to reflect the redesignation in parts 1, 100, 101, and 104. These corresponding changes replace any mention of § 101.105 with § 101.7.

III. Notice and Public Comment

Publication of this document constitutes final action of these changes under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because these amendments are nonsubstantive and provide only technical changes to redesignate an existing regulation, make corresponding changes to other regulations to reflect the redesignated section number, and make an editorial change to the section heading. These technical amendments are being made to improve the accuracy of our regulations.

List of Subjects

21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 100

Administrative practice and procedure, Food labeling, Food packaging, Foods, Intergovernmental relations.

21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 104

Food grades and standards, Frozen foods, Nutrition.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, the Food and Drug Administration amends 21 CFR parts 1, 100, 101, and 104 as follows:

PART 1—GENERAL ENFORCEMENT REGULATIONS

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 1333, 1453, 1454, 1455, 4402; 19 U.S.C. 1490, 1491; 21 U.S.C. 321, 331, 332, 333, 334, 335a, 342i, 343, 350c, 350d, 350e, 352, 355, 360b, 360ccc, 360ccc–1, 360ccc–2, 362, 371, 373, 374, 381, 382, 387, 387a, 387c, 393; 42 U.S.C. 216, 241, 243, 262, 264.

§ 1.1 [Amended]

■ 2. Amend § 1.1(c) as follows:
■ a. Remove "101.105(f)" and add in its place "101.7(f)".
■ b. Remove "101.105(i)" and add in its place "101.7(i)".
■ c. Remove "101.105(j)" and add in its place "101.7(j)".
■ d. Remove "101.105(o)" and add in its place "101.7(o)".

§ 1.20 [Amended]

■ 3. In § 1.20, by removing "§ 101.105(f)" and adding in its place "§ 101.7(f)".

§ 1.24 [Amended]

■ 4. Amend § 1.24 as follows:
■ a. Remove "§ 101.105" in paragraph (a)(2) and add in its place "§ 101.7".
■ b. Remove "§ 101.105(b)(2)" wherever it appears and add in its place "§ 101.7(b)(2)".
■ c. Remove "§ 101.105(f)" wherever it appears and add in its place "§ 101.7(f)".
■ d. Remove "§ 101.105(j)" wherever it appears and add in its place "§ 101.7(j)".
■ e. Remove "§ 101.105(j)(1)" wherever it appears and add in its place "§ 101.7(j)(1)".

PART 100—GENERAL

■ 5. The authority citation for part 100 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 337, 342, 343, 348, 371.

§ 100.155 [Amended]

■ 6. Amend § 100.155 in paragraphs (a) and (b) by removing "§ 101.105" and adding in its place "§ 101.7".

PART 101—FOOD LABELING

■ 7. The authority citation for part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

§ 101.2 [Amended]

■ 8. Amend § 101.2 in paragraph (c) introductory text by removing "§ 101.105(h)(1)" and adding in its place "§ 101.7(h)(1)".

§ 101.105 [Redesignated as § 101.7]

■ 9. Redesignate § 101.105 as § 101.7.
■ 10. Revise newly designated § 101.7 section heading to read as follows:

§ 101.7 Declaration of net quantity of contents.

* * * * *

§ 101.13 [Amended]

■ 11. Amend paragraphs (d)(2), (h)(4)(i), and (i)(2) by removing "§ 101.105(i)" and adding in its place "§ 101.7(i)".

§ 101.30 [Amended]

■ 12. Amend § 101.30(g) by removing "§ 101.105(i)" and adding in its place "§ 101.7(i)".

PART 104—NUTRITIONAL QUALITY GUIDELINES FOR FOODS

■ 13. The authority citation for part 104 continues to read as follows:

Authority: 21 U.S.C. 321, 343, 371(a).

§ 104.5 [Amended]

■ 14. Amend § 104.5(b) by removing "§ 101.105" and adding in its place "§ 101.7".

Dated: August 16, 2016.

Jeremy Sharp,
Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2016–19925 Filed 8–26–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, and 558

[Docket No. FDA–2016–N–0002]

New Animal Drugs; Approval of New Animal Drug Applications; Withdrawal of Approval of New Animal Drug Applications; Changes of Sponsorship; Change of Sponsor's Name and Address; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the animal drug regulations to reflect application-related actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during May and June 2016. FDA is also informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to reflect changes of sponsorship of applications, changes of sponsors' names and addresses, and the voluntary withdrawals of approval of applications.

DATES: This rule is effective August 29, 2016, except for the amendments to 21 CFR 558.274, 58.355, 58.363, 58.550, 558.625, and 558.630, which are effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5689, *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Approval Actions

FDA is amending the animal drug regulations to reflect approval actions for NADAs and ANADAs during May and June 2016, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents at the CVM FOIA Electronic Reading Room: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.* Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book) at: *http://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/default.htm.*

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING MAY AND JUNE 2016

Approval date	File No.	Sponsor	Product name	Species	Indications for use/effect of the action	Public documents
May 2, 2016	141–439	Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285.	INTEPRITY (avilamycin) Type A medicated article.	Chickens	Original approval for the prevention of mortality caused by necrotic enteritis associated with *Clostridium perfringens* in broiler chickens.	FOI Summary, EA/FONSI.[1]
May 16, 2016	141–457	Aratana Therapeutics, Inc., 11400 Tomahawk Creek Pkwy., Leawood, KS 66211.	ENTYCE (capromorelin oral solution).	Dogs	Original approval for appetite stimulation in dogs.	FOI Summary.
May 17, 2016	141–463	Elanco US, Inc., 2500 Innovation Way, Greenfield, IN 46140.	ONSIOR (robenacoxib) Tablets for Dogs.	Dogs	Original approval for the control of postoperative pain and inflammation associated with soft tissue surgery in dogs.	FOI Summary.
May 17, 2016	200–536	Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767–1861.	MOMETAVET (gentamicin sulfate, USP; mometasone furoate anhydrous, USP; and clotrimazole, USP) Otic Suspension.	Dogs	Original approval of a generic copy of NADA 141–177.	FOI Summary.
May 24, 2016	200–596	Huvepharma EOOD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sophia, Bulgaria.	TILMOVET 90 (tilmicosin phosphate) and RUMENSIN 90 (monensin) Type A medicated articles.	Cattle	Original approval for use in two-way, combination drug Type B and Type C medicated feeds for cattle fed in confinement for slaughter.	FOI Summary.
June 20, 2016	200–587	Cross Vetpharm Group Ltd. Broomhill Rd., Tallaght, Dublin 24, Ireland.	FERROFORTE (gleptoferron injection).	Piglets	Original approval as a generic copy of NADA 110–399.	FOI Summary.

[1] The Agency has carefully considered an environmental assessment (EA) of the potential environmental impact of this action and has made a finding of no significant impact (FONSI).

II. Changes of Sponsorship

Bayer HealthCare LLC, Animal Health Division, P.O. Box 390, Shawnee, Mission, KS 66201 has informed FDA that it has transferred ownership of, and all rights and interest in, the following approved applications to Huvepharma EOOD, 5th Floor, 3A Nikolay Haitov Str., 1113 Sofia, Bulgaria:

File No.	Product name	21 CFR section
200–228	PHOENECTIN (ivermectin) Injectable Solution	522.1192
200–254	Iron Dextran Injection, 100 mg/mL	522.1182
200–256	Iron Dextran Injection, 200 mg/mL	522.1182
200–351	Lincomycin Injectable, USP	522.1260
200–389	Amprolium 9.6% Oral Solution	520.100

As provided in the regulatory text of this document, the animal drug regulations are amended to reflect these changes of sponsorship.

III. Withdrawals of Approval

In addition, during May and June 2016, Elanco US, Inc., 2500 Innovation Way, Greenfield, IN 46140 requested that FDA withdraw approval of the NADAs listed in the following table because the products are no longer manufactured or marketed:

File No.	Product name	21 CFR section
012–548[1]	TYLOSIN (tylosin phosphate)/HYGROMIX (hygromycin B)	558.274
013–162[1]	TYLAN TM (tylosin phosphate) Type A medicated article	558.625
013–388[1]	TYLAN (tylosin phosphate)/HYGROMIX (hygromycin B) Premix	558.274
015–166[1]	TYLAN TM (tylosin phosphate) Type A medicated article	558.625
127–507[1]	TYLAN 5, 10, 20, or 40 SULFA-G (tylosin phosphate and sulfamethazine)	558.630
141–164[1]	TYLAN (tylosin phosphate)/COBAN (monensin)	558.355
141–170[1]	TYLAN (tylosin phosphate)/MONTEBAN (narasin)	558.363
141–198[1]	TYLAN TM (tylosin phosphate)/BIO-COX (salinomycin)	558.550

[1] These NADAs were identified as being affected by guidance for industry #213, "New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions with GFI #209," December 2013.

Elsewhere in this issue of the **Federal Register**, FDA gave notice that approval of NADAs 012–548, 013–162, 013–388, 015–166, 127–507, 141–640, 141–170, and 141–198, and all supplements and amendments thereto, is withdrawn, effective September 8, 2016. As provided in the regulatory text of this document, the animal drug regulations are amended to reflect these voluntary withdrawals of approval.

IV. Technical Amendments

FDA has noticed that a drug labeler code in 21 CFR 520.2325a does not accurately reflect the sponsorship of a new animal drug application. At this time, we are amending this section. This action is being taken to improve the accuracy of the regulations.

Also, ConAgra Pet Products Co., 3902 Leavenworth St., Omaha, NE 68105 has informed FDA that it is changing its name and address to Sergeant's Pet Care Products, Inc., 10077 S. 134th St., Omaha, NE 68138.

Alexion Pharmaceuticals, Inc., 33 Hayden Ave., Lexington, MA 02421 has informed FDA that it has changed its address to 100 College St., New Haven, CT 06510. At this time, this firm is being added to the list of sponsors of approved application in 21 CFR 510.600(c) which we had not done previously.

FDA has noticed that the maximum concentration of sulfadimethoxine with ormetoprim in 2-way, fixed-ratio combination drug Type B medicated feeds in 21 CFR 558.4 was amended in error. At this time, we are revising this section to provide for appropriate concentrations in Type B medicated feeds for salmonids and catfish. This action is being taken to improve the accuracy of the regulations.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, and 524

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), alphabetically add an entry for "Alexion Pharmaceuticals, Inc.", remove the entry for "ConAgra Pet Products Co.", and alphabetically add an entry for "Sergeant's Pet Care Products, Inc."; and in the table in paragraph (c)(2), revise the entry for "021091" and numerically add an entry for "069334".

The additions and revisions read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * *	*
Alexion Pharmaceuticals, Inc., 100 College St., New Haven, CT 06510	069334
* * * * * *	*
Sergeant's Pet Care Products, Inc., 10077 S. 134th St., Omaha, NE 68138	021091
* * * * * *	*

(2) * * *

Drug labeler code	Firm name and address
*	* * * * * *
021091	Sergeant's Pet Care Products, Inc., 10077 S. 134th St., Omaha, NE 68138.
*	* * * * * *
069334	Alexion Pharmaceuticals, Inc., 100 College St., New Haven, CT 06510.
*	* * * * * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.100 [Amended]

■ 4. In § 520.100, remove paragraphs (b)(3) and (4).

§§ 520.300, 520.300a, 520.300b, and 520.300c [Redesignated as §§ 520.284, 520.284a, 520.284b, and 520.284c.]

■ 5. Redesignate §§ 520.300, 520.300a, 520.300b, and 520.300c as §§ 520.284, 520.284a, 520.284b, and 520.284c.

■ 6. Add § 520.292 to read as follows:

§ 520.292 Capromorelin.

(a) *Specifications.* Each milliliter of solution contains 30 milligrams (mg) capromorelin.

(b) *Sponsor.* See No. 086026 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 3 mg/kg once daily by mouth.

(2) *Indications for use.* For appetite stimulation in dogs.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 7. In § 520.2075, revise paragraphs (a) and (c) to read as follows:

§ 520.2075 Robenacoxib.

(a) *Specifications.* Each tablet contains 10, 20, or 40 milligrams (mg) robenacoxib for use in dogs, or 6 mg robenacoxib for use in cats.

* * * * *

(c) *Conditions of use*—(1) *Dogs*—(i) *Amount.* Administer 0.91 mg/lb (2 mg/kg) orally, once daily, for a maximum of 3 days.

(ii) *Indications for use.* For the control of postoperative pain and inflammation associated with soft tissue surgery in dogs weighing at least 5.5 lb (2.5 kg) and at least 4 months of age for a maximum of 3 days.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Cats*—(i) *Amount.* Administer 0.45 mg/lb (1 mg/kg) orally, once daily, for a maximum of 3 days.

(ii) *Indications for use.* For the control of postoperative pain and inflammation associated with orthopedic surgery, ovariohysterectomy, and castration in cats weighing at least 5.5 lb (2.5 kg) and at least 4 months of age for a maximum of 3 days.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2325a [Amended]

■ 8. In § 520.2325a, in paragraph (a)(3), remove "053501" and in its place add "054771".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 9. The authority citation for part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 10. Revise § 522.1055 to read as follows:

§ 522.1055 Gleptoferron.

(a) *Specifications.* Each milliliter (mL) contains the equivalent of 200 milligrams of elemental iron as gleptoferron, a complex of ferric hydroxide and dextran glucoheptonic acid.

(b) *Sponsors.* See Nos. 059120 and 061623 in § 510.600(c) of this chapter.

(c) *Conditions of use in swine*—(1) *Indications for use and amounts*—(i) Prevention of anemia due to iron deficiency: Administer 1 mL (200 mg iron) per pig by intramuscular injection on or before 3 days of age.

(ii) Treatment of anemia due to iron deficiency: Administer 1 mL (200 mg iron) per pig by intramuscular injection as soon as signs of deficiency appear.

(2) [Reserved]

§ 522.1182 [Amended]

■ 11. In § 522.1182, in paragraph (b) introductory text, remove "baby pigs" and in its place add "young piglets"; in paragraph (b)(7) introductory text, remove "000859" and in its place add "016592"; and in paragraphs (b)(7)(i) and (ii), remove "baby pig".

§ 522.1192 [Amended]

■ 12. In § 522.1192, in paragraph (b)(2), remove "000859" and in its place add "016592,".

§ 522.1260 [Amended]

■ 13. In § 522.1260, in paragraph (b)(2), remove "000859" and in its place add "016592".

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 14. The authority citation for part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 15. In § 524.1044h, revise paragraphs (a) and (b) to read as follows:

§ 524.1044h Gentamicin, mometasone, and clotrimazole otic suspension.

(a) *Specifications.* Each gram of suspension contains gentamicin sulfate, United States Pharmacopeia (USP) equivalent to 3 milligram (mg) gentamicin base, mometasone furoate monohydrate or mometasone furoate anhydrous, USP, equivalent to 1 mg mometasone, and 10 mg clotrimazole, USP.

(b) *Sponsors.* See Nos. 000061 and 054925 in § 510.600(c) of this chapter.

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 16. The authority citation for part 558 continues to read as follows:

Authority: 21 U.S.C. 354, 360b, 360ccc, 360ccc–1, 371.

§ 558.4 [Amended]

■ 17. In § 558.4, in paragraph (d), in the "Category I" table, in the "Type B maximum (200 ×)" column, in the row entry for "Avilamycin", remove "3.65 g/lb (0.8%)" and in its place add "7.3 g/lb (1.6%)"; and in the "Category II" table, remove the row entry for "Sulfadimethoxine" and two following row entries for "Ormetoprim", and in their place add row entries for "Sulfadimethoxine" and "Ormetoprim".

The additions read as follows:

§ 558.4 Requirement of a medicated feed mill license.

* * * * *

(d) * * *

CATEGORY II

Drug	Assay limits percent[1] Type A	Type B maximum (100 ×)	Assay limits percent Type B/C
* * * * * * *			
Sulfadimethoxine	90–110	Poultry: 5.675 g/lb Fish: 85.1 g/lb	80–115/75–125
Ormetoprim	90–110	Poultry: 3.405 g/lb Fish: 17.0 g/lb	80–115
* * * * * * *			

* * * * *

■ 18. In § 558.68, revise paragraphs (a) and (e) to read as follows:

§ 558.68 Avilamycin.

(a) Each pound of Type A medicated article contains 45.4 or 90.7 grams of avilamycin.

* * * * *

(e) *Conditions of use.* Administer in feed as follows:

(1) *Chickens*—

Avilamycin in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
(i) 13.6 to 40.9		Broiler chickens: For the prevention of mortality caused by necrotic enteritis associated with *Clostridium perfringens* in broiler chickens.	Feed as the sole ration for 21 consecutive days. To assure responsible antimicrobial drug use in broiler chickens, treatment administration must begin on or before 10 days of age.	000986
(ii) [Reserved].				

(2) *Swine*—

Avilamycin in grams/ton	Combinationin grams/ton	Indications for use	Limitations	Sponsor
(i) 73		Weaned pigs less than 14 weeks of age: For the reduction in incidence and overall severity of diarrhea in the presence of pathogenic *Escherichia coli* in groups of weaned pigs.	Feed as the sole ration for 21 consecutive days. To assure responsible antimicrobial drug use in pigs, do not administer to pigs 14 weeks of age or older.	000986
(ii) [Reserved].				

§ 558.274 [Amended]

■ 19. Effective September 8, 2016, in § 558.274, remove and reserve paragraphs (c)(1)(ii) and (c)(2)(ii).

■ 20. Effective September 8, 2016, in § 558.355, remove and reserve paragraph (f)(1)(xxviii) and revise paragraphs (f)(8)(i) and (ii).

The revisions read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(8) * * *

(i) Decoquinate alone and in combination as in § 558.195.

(ii) Melengestrol acetate alone and in combination as in § 558.342.

* * * * *

§ 558.363 [Amended]

■ 21. Effective September 8, 2016, in § 558.363, remove and reserve paragraph (d)(1)(vi).

§ 558.550 [Amended]

■ 22. Effective September 8, 2016, in § 558.550, remove and reserve paragraph (d)(1)(xxii).

§ 558.618 [Amended]

■ 23. In § 558.618, in paragraphs (e)(2)(ii) and (iii):

■ a. In the "Limitations" column, add "Tilmicosin as provided by Nos. 000986 or 016952; monensin as provided by No. 000986 in § 510.600(c) of this chapter." to the end of the existing entries; and

■ b. In the "Sponsor" column, numerically add "016952".

■ 24. Effective September 8, 2016, in § 558.625, revise paragraphs (b)(1), (f)(2)(i), (f)(2)(iii), and (f)(2)(vii) and remove paragraphs (f)(2)(viii) and (ix).

The revisions read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(1) No. 000986: 40 and 100 grams per pound for use as in paragraph (f) of this section.

* * * * *

(f) * * *

(2) * * *

(i) Decoquinate alone and in combination as in § 558.195.

* * * * *

(iii) Melengestrol acetate alone and in combination as in § 558.342.

* * * * *

(vii) Zilpaterol alone and in combination as in § 558.665.

■ 25. Effective September 8, 2016, in § 558.630, revise paragraph (b)(1) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(1) No. 000986: 40 and 100 grams per pound for use as in paragraph (e) of this section.

* * * * *

Dated: August 8, 2016.

Tracey H. Forfa,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 2016–19914 Filed 8–26–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. FDA–2016–N–0002]

New Animal Drugs for Use in Animal Feed; Withdrawal of Approval of a New Animal Drug Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of eight new animal drug applications (NADAs) at the sponsor's request because these products are no longer manufactured or marketed.

DATES: Withdrawal of approval is effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Sujaya Dessai, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5761, *sujaya.dessai@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285 has requested that FDA withdraw approval of the NADAs listed in the following table because the products are no longer manufactured or marketed:

File No.	Product name	21 CFR section
012–548[1]	TYLOSIN (tylosin phosphate)/HYGROMIX (hygromycin B)	558.274
013–162[1]	TYLAN TM (tylosin phosphate) Type A medicated article	558.625

File No.	Product name	21 CFR section
013–388[1]	TYLAN (tylosin phosphate)/HYGROMIX (hygromycin B) Premix	558.274
015–166[1]	TYLAN TM (tylosin phosphate) Type A medicated article	558.625
127–507[1]	TYLAN 5 SULFA-G (tylosin phosphate and sulfamethazine), TYLAN 10 SULFA-G (tylosin phosphate and sulfamethazine), TYLAN 20 SULFA-G (tylosin phosphate and sulfamethazine), TYLAN 40 SULFA-G (tylosin phosphate and sulfamethazine).	558.630
141–164[1]	TYLAN (tylosin phosphate)/COBAN (monensin)	558.355
141–170[1]	TYLAN (tylosin phosphate)/MONTEBAN (narasin)	558.363
141–198[1]	TYLAN TM (tylosin phosphate)/BIO-COX (salinomycin)	558.550

[1] These NADAs were identified as being affected by guidance for industry #213, "New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions with GFI #209," December 2013.

Therefore, under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, and in accordance with § 514.116 *Notice of withdrawal of approval of application* (21 CFR 514.116), notice is given that approval of NADAs 012–548, 013–162, 013–388, 015–166, 127–507, 141–164, 141–170, and 141–198, and all supplements and amendments thereto, is hereby withdrawn, effective September 8, 2016.

Elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations to reflect the voluntary withdrawal of approval of these applications.

Dated: August 8, 2016.

Tracey H. Forfa,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 2016–19915 Filed 8–26–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 97 and 160

[Docket No. USCG–2000–7080]

RIN 1625–AA25 [formerly RIN 2115–AF97]

Cargo Securing Manuals

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: The Coast Guard published an interim rule in the **Federal Register** on May 9, 2016, that prescribes when and how the loss or jettisoning of cargo at sea must be reported. That rule contained a typographical error that erroneously revised a force majeure regulation instead of a notice of hazardous conditions regulation. This document corrects that error.

DATES: Effective August 29, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ken Smith, Office of Operating and Environmental Standards (CG–OES–2), Coast Guard; telephone 202–372–1413, email *Ken.A.Smith@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Viewing Documents Associated With This Rule

To view the interim rule published on May 9, 2016, or other documents in the docket for the Cargo Securing Manuals rulemaking, go to *www.regulations.gov,* type the docket number, USCG–2000–7080, in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" in the first item listed. Use the following link to go directly to the docket: *www.regulations.gov/document?D=USCG-2000-7080-0040.*

Background

In 2013 the Coast Guard proposed to revise 33 CFR 160.215, "Notice of hazardous conditions," as part of its supplemental notice of proposed rulemaking regarding cargo securing manuals (78 FR 68784, November 15, 2013). In 2015, a different rulemaking, regarding notices of arrival, redesignated § 160.215 as § 160.216, and inserted a provision on force majeure in § 160.215 (80 FR 5281, January 30, 2015). In 2016, the Coast Guard published an interim rule on cargo securing manuals that implemented changes it had proposed in 2013, including the amendment of § 160.215 (81 FR 27992, May 9, 2016). Because the 2016 rule amended § 160.215 when it should have amended the redesignated section, § 160.216, the force majeure provision was unintentionally removed and part 160 contained two consecutive sections on notice of hazardous conditions. It was an error for the interim rule to revise § 160.215 and replace the force majeure provision. This rule corrects that error and a cross-reference in 33 CFR 97.115 to § 160.215.

Need for Correction

As discussed above, the interim rule published May 9, 2016, incorrectly replaced force majeure regulations in § 160.215, instead of amending notice of hazardous conditions regulations in § 160.216.

List of Subjects

33 CFR Part 97

Cargo stowage and securing, Cargo vessels, Hazardous materials, Incorporation by reference, Reporting and recordkeeping requirements.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Personally identifiable information, Reporting and recordkeeping requirements, Seamen, Vessels, Waterways.

For the reasons stated in the preamble, 33 CFR parts 97 and 160 are amended as follows:

PART 97—RULES FOR THE SAFE OPERATION OF VESSELS, STOWAGE AND SECURING OF CARGOES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234; Department of Homeland Security Delegation No. 0170.1(92)(a) and (b).

§ 97.115 [Amended]

■ 2. In § 97.115(a), remove "160.215", and add, in its place, "160.216".

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

■ 3. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1. Subpart C is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

§ 160.216 [Removed]

■ 4. Remove § 160.216.

§ 160.215 [Redesignated as § 160.216]

■ 5. Redesignate § 160.215 as § 160.216.

■ 6. Add new § 160.215 to read as follows:

§ 160.215 Force majeure.

When a vessel is bound for a port or place of the United States under force majeure, it must comply with the requirements in this section, but not other sections of this subpart. The vessel must report the following information to the nearest Captain of the Port as soon as practicable:

(a) The vessel Master's intentions;

(b) Any hazardous conditions as defined in § 160.202; and

(c) If the vessel is carrying certain dangerous cargo or controlling a vessel carrying certain dangerous cargo, the amount and name of each CDC carried, including cargo UN number if applicable.

Dated: August 24, 2016.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2016–20678 Filed 8–26–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0768]

Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois. The deviation is necessary to allow the bridge owner time to facilitate repairs to the locking mechanisms on the rail deck of the bridge. This deviation allows the bridge to be maintained in the closed-to-navigation position for critical repairs that are essential to the continued safe operation of the drawbridge.

DATES: This deviation is effective from 5 a.m. on September 14, 2016 to 5 a.m. on September 15, 2016.

ADDRESSES: The docket for this deviation, USCG–2016–0768, is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone (314) 269–2378, email *Eric.Washburn@uscg.mil.*

SUPPLEMENTARY INFORMATION: The U.S. Army Rock Island Arsenal requested a temporary deviation for the Rock Island Railroad and Highway Drawbridge, mile 482.9, at Rock Island, Illinois across the Upper Mississippi River. It has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart.

The deviation period is from 5 a.m. on September 14, 2016 to 5 a.m. on September 15, 2016 when the draw span will remain in the closed-to-navigation position. During this time the bridge owner will facilitate critical repairs to the locking mechanisms on the rail deck of the bridge that are essential to the continued safe operation of the drawbridge. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass this section of the Upper Mississippi River. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 24, 2016.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2016–20648 Filed 8–26–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AP77

Loan Guaranty: Delegation of Authority

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) loan guaranty regulations to correct an oversight in the delegation of authority to exercise the powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom. This document also incorporates into regulatory form delegatory authority already granted certain VA loan guaranty officials to administer and manage properties acquired by VA.

DATES: *Effective Date:* August 29, 2016.

FOR FURTHER INFORMATION CONTACT: John Bell III, Assistant Director for Loan Policy and Valuation (262), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 632–8786. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: VA is amending 38 CFR 36.4345(b)(1), Delegation of authority, to add Principal Under Secretary for Benefits and Deputy Under Secretary for Economic Opportunity to the list of VA employees who hold authority to exercise the powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom. VA is also adding to the list Deputy Director, Loan Guaranty Service; Assistant Director, Loan Guaranty Service; and Realty Officer, Loan Guaranty Service.

The positions of Principal Under Secretary for Benefits and Deputy Under Secretary for Economic Opportunity were not originally included in 38 CFR 36.4345(b)(1) because they did not exist at the time the regulation was promulgated. VA inadvertently omitted the delegatory authority to the positions of Deputy Director, Assistant Director, and Realty Officer Loan Guaranty Service. Accordingly, VA is amending this regulatory provision to add these positions to the list of VA employees to whom the authority to exercise the powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom.

VA is removing from 38 CFR 36.4345(b)(1) the positions of Director, Medical and Regional Office Center and Director, VA Regional Office and Insurance Center. Under VA's current administrative framework, the issues related to the guaranty and insurance of loans fall outside their subject matter jurisdiction.

VA is further amending 38 CFR 36.4345 to add a new paragraph (b)(3), to delegate authority to the position of Supervisory Realty Specialist to act on behalf the Secretary to execute and deliver necessary and appropriate instruments in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property, or any right, title, or interest therein, for any purpose authorized by 38 U.S.C., chapter 37. The delegation of authority to Supervisory Realty Specialist was not originally regulated, but is instead found in a formal letter of delegation signed on July 25, 2013, by the Secretary.

Finally, VA is amending the authority citation to include additional support for delegations of authority. In addition to 38 U.S.C. 3720, which was originally cited, VA is adding 38 U.S.C. 512, an express provision that authorizes further delegation by the Secretary.

Administrative Procedure Act

This final rule only includes amendments that are technical and nonsubstantive. There is nothing interpretive contained in these amendments. Accordingly, this rule exempts from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," which requires review by OMB, as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and we have determined that this rule is not an economically significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, applies only to rules for which an agency is required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b) or any other law. 5 U.S.C. 603(a). The RFA does not apply to this rulemaking because VA has found good cause to publish this rule without notice and comment pursuant to 5 U.S.C. 553(b).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.114, Veterans Housing—Guaranteed and Insured Loans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the **Federal Register** for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on August 22, 2016, for publication.

Dated: August 22, 2016.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

List of Subjects in 38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs-housing and community development, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

For the reasons discussed in the preamble, the Department of Veterans Affairs amends 38 CFR part 36 as follows:

PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 is revised to read as follows:

Authority: 38 U.S.C. 501 and 3720.

■ 2. Amend § 36.4345 by revising paragraph (b)(1) and adding paragraph (b)(3) to read as follows:

§ 36.4345 Delegation of authority.

* * * * *

(b)(1) Designated positions are as follows:

(i) Under Secretary for Benefits.

(ii) Principal Deputy Under Secretary for Benefits.

(iii) Deputy Under Secretary for Economic Opportunity.

(iv) Director, Loan Guaranty Service.

(iv) Director, Regional Office.

(v) Deputy Director, Loan Guaranty Service.

(vi) Assistant Director, Loan Guaranty Service.

(vii) Loan Guaranty Officer.

(viii) Assistant Loan Guaranty Officer.

(ix) Realty Officer, Loan Guaranty Service.

* * * * *

(3) An employee of the Department of Veterans Affairs heretofore or hereafter appointed to, or lawfully filling, the position of Supervisory Realty Specialist is hereby delegated authority to act on behalf the Secretary to execute and deliver necessary and appropriate instruments in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property, or any right, title, or

interest therein, for any purpose authorized by 38 U.S.C., chapter 37.

* * * * *

[FR Doc. 2016–20499 Filed 8–26–16; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2013–0260; A–1–FRL–9951–46–Region 1]

Air Plan Approval; New Hampshire; Approval of Single Source Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. The revisions consist of single source orders that establish reasonably available control technology for three sources of volatile organic compounds. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective October 28, 2016, unless EPA receives adverse comments by September 28, 2016. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2013–0260 at *http://www.regulations.gov,* or via email to Anne Arnold at: *arnold.anne@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Environmental Engineer, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05–02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109–3912; (617) 918–1046; *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Description and Evaluation of the State's Submittals
  1. Order for Parker-Hannifin Corporation
  2. Order for Textile Tapes Corporation
  3. Order for Watts Regulator Corporation
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background and Purpose

The New Hampshire Department of Environmental Services (NH DES) submitted to EPA the following three single source orders establishing reasonably available control technology (RACT) for sources of volatile organic compounds (VOCs) for incorporation into the New Hampshire SIP: RACT Order ARD–03–001A, issued to Parker-Hannifin Corporation, Chomerics Division, located in Hudson, New Hampshire, submitted to EPA on October 31, 2014; RACT Order ARD–96–001, issued to Textile Tapes Corporation located in Gonic, New Hampshire, submitted to EPA on July 30, 2015; and RACT Order ARD–07–001, issued to Watts Regulator Company located in Franklin, New Hampshire, submitted to EPA on September 9, 2015. A description of these submittals and our evaluation of them appears below in Section II of this document.

II. Description and Evaluation of the State's Submittals

1. Order for Parker-Hannifin Corporation

The Parker-Hannifin Corporation, Chomerics Division, located in Hudson, New Hampshire, produces coated fabrics, films, and other substrates for use in the electronics industry. The NH DES previously issued VOC RACT Order ARD 03–001 to the facility on July 18, 2002, and EPA approved that order into the NH SIP on November 5, 2012. See 77 FR 66388. NH DES re-issued the order for this facility as ARD 03–001A to allow for modifications to monitoring requirements, testing frequency, and determination of destruction and removal efficiency for a catalytic oxidizer operated by the facility to control air pollution. New Hampshire DES determined that these changes were appropriate after reviewing the performance history of the oxidizer. VOC RACT Order ARD 03–001A was issued by the NH DES on October 22, 2014, and establishes enforceable requirements the facility must follow in order to control VOC emissions at the facility. The Order includes requirements for periodic monitoring of the catalytic oxidizer's performance, recordkeeping requirements, work practice standards, and allows the facility to generate and use discrete emission reduction credits.

2. Order for Textile Tapes Corporation

The Textile Tapes Corporation operates a fabric coating and hot melt coating facility located in Gonic, New Hampshire. The NH DES previously issued VOC RACT Order ARD–96–001 to the facility, with a state effective date of August 10, 2007, which EPA approved into the New Hampshire SIP on November 5, 2012. See 77 FR 66388. Subsequently, the facility installed a new regenerative thermal oxidizer (RTO) to replace an existing unit at the facility. The updated VOC RACT order for the facility, ARD–96–001, as amended on July 30, 2015, contains an updated operating temperature for the new RTO. Additionally, the updated VOC RACT order provides a facility wide VOC emissions limit of 24.9 tons on a 12 month rolling basis, which is a decrease from the previous limit of 63.8 tons. The updated order makes a number of editorial changes to reflect the current citations for New Hampshire's air pollution control regulations, includes requirements for monitoring and testing for the RTO, includes recordkeeping requirements, and allows the facility to generate and use discrete emission reduction credits.

3. Order for Watts Regulator Company

The Watts Regulator Company manufactures equipment for the plumbing, heating, and water quality industries at a facility located in Franklin, New Hampshire. The NH DES previously issued VOC RACT Order ARD–07–001 to the facility, which was then operated under the name Webster

Valve Company, with a state effective date of March 21, 2007. EPA approved this order into the NH SIP on November 5, 2012. See 77 FR 66388. NH DES amended the order for this facility in 2015 to reflect the pending applicability of a newly adopted state VOC regulation, Env-A 1212, Miscellaneous Metal and Plastic Parts and Products Coating, to coatings used by the facility, and to include work practice standards to the order. The order includes recordkeeping requirements, and allows the facility to generate and use discrete emission reduction credits.

EPA agrees with New Hampshire's updated RACT determinations for the three sources mentioned above, and is therefore removing the existing orders for these facilities from the New Hampshire SIP and replacing them with the updated orders described above. The updated orders we are approving are at least as stringent as the orders being replaced, and therefore meet the anti-backsliding requirements of section 110(l) of the CAA.

III. Final Action

EPA is approving, and incorporating into the New Hampshire SIP, three single source orders that establish reasonably available control technology for the Parker-Hannifin Corporation, the Textile Tapes Corporation, and the Watts Regulator Company, and is removing previously approved orders for these three facilities from the New Hampshire SIP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective October 28, 2016 without further notice unless the Agency receives relevant adverse comments by September 28, 2016.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 28, 2016 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of single source orders for the Parker Hannifin Corporation, Textile Tapes Corporation, and Watts Regulator Company, as described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov,* and/or at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 15, 2016.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart EE—New Hampshire

■ 2. In § 52.1520(d), the table is amended by removing existing entries for Parker-Hanifan Corporation, Textile Tapes Corporation (2 entries), and Webster Valve, and adding new entries for Parker-Hannifin Corporation, Textile Tapes Corporation, and Watts Regulator Company to the end of the table to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(d) *EPA-approved State Source specific requirements.*

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date [2]	Additional explanations/ § 52.1535 citation
* * *	*	*	*	*
Parker-Hannifin Corporation	ARD 03–001A	10/22/2014	8/29/2016 [Insert **Federal Register** citation].	VOC RACT Order.
Textile Tapes Corporation	ARD–96–001	7/30/2015	8/29/2016 [Insert **Federal Register** citation].	VOC RACT Order.
Watts Regulator Company	ARD 07–001	8/21/2015	8/29/2016 [Insert **Federal Register** citation].	VOC RACT Order.
* * *	*	*	*	*

[2] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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[FR Doc. 2016–20538 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 503, 515, 520, 530, 531, 535, 540, 550, 555, and 560

[Docket No. 16–06]

RIN 3072–AC34

Update of Existing and Addition of New User Fees

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (Commission) is amending its user fees to more accurately align fees with the costs associated with each service provided by the Commission. Specifically, the Commission is increasing fees for: Filing complaints and certain petitions; records searches, document copying, and admissions to practice; paper filing of ocean transportation intermediary (OTI) applications; filing applications for special permission; and filing agreements.

The Commission is also lowering fees for: Reviewing Freedom of Information Act (FOIA) requests; revising clerical errors on service contracts; revising clerical errors on non-vessel-operating common carrier (NVOCC) service arrangements; and Commission services to passenger vessel operators (PVOs).

In addition, the Commission is repealing four existing fees for: Adding interested parties to a specific docket mailing list; the Regulated Persons Index database; database reports on Effective Carrier Agreements; and filing petitions for rulemaking, and adding a new fee for requests for expedited review of an agreement filing.

DATES: Effective October 1, 2016.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001. *Phone:* (202) 523–5725. *Email: secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION: The Commission's current user fees are based on an assessment of fiscal year 2004 costs and have not been updated since 2005.[1] Consequently, many of the current user fees no longer represent the Commission's actual costs for providing services. The Commission is adjusting its user fees based on fiscal year 2015 costs assessed through a new methodology for calculating costs for services provided by the Commission.

The Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, authorizes agencies to establish charges (user fees) for services and benefits that it provides to specific recipients. Under the IOAA, charges must be fair and based on the costs to the Government, the value of the service or thing to the recipient, the public policy or interest served, and other relevant facts. The IOAA also provides that regulations implementing user fees are subject to policies prescribed by the President, which are currently set forth in OMB Circular A–25, *User Charges* (revised July 8, 1993).

OMB Circular A–25 requires agencies to conduct a periodic reassessment of costs and, if necessary, adjust or establish new fees. Under OMB Circular A–25, fees should be established for Government-provided services that confer benefits on identifiable recipients over and above those benefits received by the general public. OMB Circular A–25 also provides that agencies should determine or estimate costs based on the best available records in the agency, and that cost computations must cover the direct and indirect costs to the agency providing the activity.

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[1] The Commission established the fee for filing or updating OTI license applications electronically in 2007.

On March 21, 2016, the Commission issued an Advanced Notice of Proposed Rulemaking (ANPRM), 81 FR 15002, seeking public comment and did not receive any comments. The Commission again sought public comment by issuing a Notice of Proposed Rulemaking (NPRM), 81 FR 33637, on May 27, 2016. The Commission received two comments in response to the NPRM, one from an individual and one from the World Shipping Council.

The individual commenter requested that the Commission eliminate 46 CFR 503.50(c)(1)(ii) and (c)(3)(iii) to avoid ambiguity, improve clarity, and conform to typical federal agency practice. The commenter claims that the wording is ambiguous because the proposed language states that the minimum charge for a records search is $27, but the Commission does not charge a fee for two hours of search for noncommercial requesters. The Commission provides an exception to the minimum search fee for educational and noncommercial scientific institution requesters and for representatives of the news media requesters because the Freedom of Information Act (FOIA), 5 U.S.C. 552(a)(4)(A)(ii), precludes agencies from imposing a search fee when the requester is not seeking documents for a commercial use. The commenter also argues that there is ambiguity in the proposed language because there are existing provisions where the Commission does not charge a fee at all if the processing of the fee were likely to equal or exceed the fee itself. The Commission provides this de minimus exception, in accordance with 5 U.S.C. 552(a)(A)(iv)(I). While the Commission does not consider § 503.50(c)(1)(ii) and (c)(3)(iii) as proposed in the NPRM to be confusing, we are adding the phrase "Unless an exception provided in § 503.50(b)(2) applies" to make the rule unequivocally clear.

The individual commenter requested that the Commission not adopt certain portions of proposed § 503.50(c)(3)(i) and (ii) because they do not reflect OMB FOIA Fee Guidelines. Similarly, the commenter requested that § 503.69(b)(1) not be modified because the Commission did not provide a rationale for the change in duplication fees and there is no evidence that there has been any examination of the actual per page direct cost of xerographic duplication.

The individual also commented that the basis for the rule change in § 503.69(b)(1) is unclear and that it is unclear where the Regulated Persons Index is located on the Commission's Web site.

The World Shipping Council requests that the Commission provide detailed cost information for each service it provides and requests an additional 45-day comment period. The Commission believes transparency and public participation is essential in amending user fees and has afforded stakeholders two opportunities to comment on the proposed changes. Furthermore, the Commission provided a summary of the fee assessment methodology in both the ANPRM and NPRM. In addition, the Commission provided a detailed description of the methodology in the docket to this rulemaking, as well as a detailed fee index. In the interest of transparency, the Commission will place the cost analysis for each service in the docket. The Commission, however, believes that ample time and information has been provided for public comment and, therefore, will not go forward with a third comment period.

Fee Adjustments

The adjustments will allow some user fees to remain unchanged; increase, reduce, or delete other fees; and add one new fee. The Commission is increasing fees to reflect increases in salary and indirect (overhead) costs. For some services, an increase in processing or review time may account for all or part of the increase in the amount of the fees. For other services, fees are lower than current fees due to an overall reduced cost to provide those services.

The Commission assesses nominal processing fees for services related to the filing of complaints and certain petitions; various public information services, such as records searches, document copying, and admissions to practice; and filing applications for special permission. Due to an increase in the processing cost of these services, the Commission is adjusting upward these administrative fees based on an assessment of fiscal year 2015 costs. Similarly, the Commission is adjusting upward the user fees associated with agreements filed under 46 CFR part 535 because of the increase in reviewing and analyzing the agreement filings.

With respect to OTI license applications, the fees for electronic filing of license applications through the Commission's FMC–18 automated filing system are lower than the fees to file paper applications. The Commission first adopted lower fees in 2007 to promote the use of the electronic filing option by the public and to facilitate the transfer of OTI records from a paper-based format to a more convenient and accessible digital format.[2] As intended, the majority of OTI applicants are using the automated system and paying the reduced fees. In fiscal year 2015, the total number of OTI applicants using the automated filing system at the reduced fees was 619, and the total number of OTI applicants filing their applications in paper format at the higher fees was 44. This program has been successful and the Commission is continuing to offer the lower fees for electronic filing at the current fee amounts.[3]

The Commission is decreasing fees for the Commission's services to passenger vessel operators (PVOs) under 46 CFR part 540. These services include reviewing and processing the application for certification on performance; the supplemental application on performance for the addition or substitution of a vessel; the application for certification on casualty, and the supplemental application on casualty for the addition or substitution of a vessel.

For reviews of requests filed under FOIA, the Commission is lowering the fees due to the change in grade level of the professional staff that review FOIA requests. For revisions of clerical errors on service contracts, the Commission is lowering the fee due to the reduction in processing time.

The Commission is repealing the user fee for obtaining a copy of the Regulated Persons Index given that it is currently available on the Commission's Web site. (*http://www2.fmc.gov/oti/*) The Commission also proposes repealing the current fee assessed for adding an interested party to a specific docket mailing list under § 503.50(d), and the fee assessed under § 535.401(h) for obtaining a Commission agreement database report.

In addition, the Commission is repealing the user fee for filing petitions for rulemaking found in § 503.51(a). This aligns the Commission with the practice of other agencies, the vast majority of which do not impose a fee to file petitions for rulemaking. Repealing this user fee would also enhance access to the rulemaking process, thereby making it fairer and more open.

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[2] FMC Docket No. 07–08, *Optional Method of Filing Form FMC–18, Application for a License as an Ocean Transportation Intermediary*, 72 FR 44976, 44977 (Aug. 10, 2007).

[3] While the automated filing system allows users to file their applications electronically, the automated system for processing the applications is still under development. The fees for the electronic filing of OTI applications will be addressed by the Commission when the entire FMC–18 automated system is complete and operational, and the costs of the system and its impact on the review of OTI applications can be quantified.

The Commission is also adding a new fee for processing requests for expedited review of an agreement under § 535.605, which allows filing parties to request that the 45-day waiting period be shortened to meet an operational urgency. The Commission believes that a fee for processing such requests is necessary to recoup the cost of publishing a separate **Federal Register** notice for expedited review. This new fee will be assessed in addition to the underlying agreement filing fee required by § 535.401(g).

Regulatory Analysis and Notices

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, requires an agency to review final rules to assess their impact on small entities and prepare a final regulatory flexibility analysis (FRFA), unless the agency head determines that the regulatory action will not have a significant impact on a substantial number of small entities. The Chairman certified, in the NPRM, that the proposed rule would not have a significant economic impact on a substantial number of small entities. The adjusted user fees reflect the costs of specific Commission services for identifiable recipients. The economic impact of user fees on a small entity results from the entity requesting a particular service that requires payment of a fee for that service. The dollar amount of each user fee proposed in this rule is not substantial enough to have a significant economic impact on any entity subject to the user fee. On average, as weighted by the volume of fee assessments for fiscal year 2015, the total increase in user fees is below the rise in inflation and employment costs from the last assessment in fiscal year 2004. Furthermore, the Commission's regulations provide for a waiver or reduction of any fee in extraordinary situations. 46 CFR 503.42. The Chairman of the Commission, therefore, certifies that the final rule, will not have a significant economic impact on a substantial number of small entities.[4]

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before making most requests for information if the agency is requesting information from more than ten persons. 44 U.S.C. 3507. This final rule does not contain any collections of information, as defined by 44 U.S.C. 3502(3) and 5 CFR 1320.3(c).

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 503

Classified information, Freedom of Information, Privacy, Sunshine Act.

46 CFR Part 515

Exports, Freight forwarders, Non-vessel-operating common carriers, Ocean transportation intermediaries, Licensing requirements, Financial responsibility requirements, Reporting and recordkeeping requirements.

46 CFR Part 520

Common carrier, Freight, Intermodal transportation, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 530

Freight, Maritime carriers, Report and recordkeeping requirements.

46 CFR Part 531

Freight, Maritime carriers, Report and recordkeeping requirements.

46 CFR Part 535

Administrative practice and procedure, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

46 CFR Part 550

Administrative practice and procedure, Maritime carriers.

46 CFR Part 555

Administrative practice and procedure, Investigations, Maritime carriers.

46 CFR Part 560

Administrative practice and procedure, Maritime carriers.

For the reasons set forth above, the Federal Maritime Commission amends 46 CFR parts 502, 503, 515, 520, 530, 535, 540, 550, 555, and 560 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for Part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–584; 591–596; 18 U.S.C. 207; 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. 305, 40103–40104, 40304, 40306, 40501–40503, 40701–40706, 41101–41109, 41301–41309, 44101–44106; 5 CFR part 2635.

Subpart D—Rulemaking

§ 502.51 [Amended]

■ 2. In § 502.51, amend paragraph (a) by removing "§ 502.74" and adding in its place "§ 502.69" and removing the fourth sentence.

Subpart E—Proceedings; Pleadings; Motions; Replies

■ 3. In § 502.62, paragraph (a)(6) is revised to read as follows:

§ 502.62 Private party complaints for formal adjudication.

(a) * * *

(6) *Filing fee:* The complaint must be accompanied by remittance of a $289 filing fee.

* * * * *

■ 4. In § 502.75, revise paragraph (a)(3) to read as follows:

§ 502.75 Declaratory orders and fee.

(a) * * *

(3) Petitions must be accompanied by remittance of a $289 filing fee.

* * * * *

■ 5. In § 502.76, revise paragraph (b) to read as follows:

§ 502.76 Petitions-general and fee.

* * * * *

(b) Petitions must be accompanied by remittance of a $289 filing fee. [Rule 76.]

Subpart K—Shortened Procedure

■ 6. The last sentence of § 502.182 is revised to read as follows:

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[4] In extraordinary situations, the Commission will accept requests for waivers or fee reductions. Such request must demonstrate that the waiver or reduction of a fee is in the best interest of the public, or that payment of a fee would impose an undue hardship.

§ 502.182 Complaint and memorandum of facts and arguments and filing fee.

* * * The complaint must be accompanied by remittance of a $289 filing fee. [Rule 182.]

Subpart Q—Refund or Waiver of Freight Charges

■ 7. In § 502.271, revise paragraph (d)(5) to read as follows:

§ 502.271 Special docket application for permission to refund or waive freight charges.

* * * * *

(d) * * *

(5) Applications must be accompanied by remittance of a $117 filing fee.

* * * * *

Subpart S—Informal Procedure for Adjudication of Small Claims

■ 8. The last sentence of § 502.304(b) is revised to read as follows:

§ 502.304 Procedure and filing fee.

* * * * *

(b) * * * Such claims must be accompanied by remittance of an $85 filing fee.

* * * * *

PART 503—PUBLIC INFORMATION

■ 9. The authority citation for Part 503 is revised to read as follows:

Authority: 5 U.S.C. 331, 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 13526 of January 5, 2010 75 FR 707, 3 CFR, 2010 Comp., p. 298, sections 5.1(a) and (b).

Subpart F—Fees

■ 10. In § 503.50, paragraph (c)(1) introductory text, paragraphs (c)(1)(i) and (ii); the first sentence of paragraph (c)(2); paragraphs (c)(3)(i), (ii) and (iii); paragraph (c)(4); and paragraph (e) are revised to read as follows:

§ 503.50 Fees for services.

* * * * *

(c) * * *

(1) Records search (including electronic search) will be performed by Commission personnel at the following rates:

(i) Search will be performed by clerical/administrative personnel at a rate of $27 per hour and by professional/executive personnel at a rate of $57 per hour.

(ii) Unless an exception provided in paragraph (b)(2) of this section applies, the minimum charge for record search is $27.

(2) Charges for review of records to determine whether they are exempt from disclosure under § 503.33 must be assessed to recover full costs at the rate of $57 per hour. * * *

(3) * * *

(i) If performed by requesting party at the rate of ten cents per page (one side).

(ii) By Commission personnel, at the rate of ten cents per page (one side) plus $27 per hour.

(iii) Unless an exception provided in paragraph (b)(2) of this section applies, the minimum charge for copying is $5.

* * * * *

(4) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $84 for each certification.

* * * * *

(e) Applications for admission to practice before the Commission for persons not attorneys at law must be accompanied by a fee of $153 pursuant to § 502.27 of this chapter.

Subpart H—Access to Any Record of Identifiable Personal Information

■ 11. In § 503.69, paragraphs (b)(1) and (2) are revised to read as follows:

§ 503.69 Fees.

* * * * *

(b) * * *

(1) The copying of records and documents will be available at the rate of ten cents per page (one side), limited to size 8¼″ x 14″ or smaller.

(2) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $84 for each certification.

* * * * *

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

■ 12. The authority citation for Part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. 305, 40102, 40104, 40501–40503, 40901–40904, 41101–41109, 41301–41302, 41305–41307; Pub. L. 105–383, 112 Stat. 3411; 21 U.S.C. 862.

Subpart A—General

■ 13. In § 515.5, paragraphs (c)(2)(i) and (ii) are revised to read as follows:

§ 515.5 Forms and fees.

* * * * *

(c) * * *

(2) * * *

(i) Application for new OTI license as required by § 515.12(a): Automated filing $250; paper filing pursuant to waiver $1,055.

(ii) Application for change to OTI license or license transfer as required by § 515.20(a) and (b): Automated filing $125; paper filing pursuant to waiver $735.

Subpart D—Duties and Responsibilities of Ocean Transportation Intermediaries; Reports to Commission

■ 15. The last sentence of § 515.34 is removed and the second sentence is revised to read as follows:

§ 515.34 Regulated Persons Index.

* * *

The database is available at no charge on the Commission's Web site at *www.fmc.gov.*

PART 520—CARRIER AUTOMATED TARIFFS

■ 16. The authority citation for Part 520 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40101–40102, 40501–40503, 40701–40706, 41101–41109.

■ 17. The last sentence of § 520.14 paragraph (c)(1) is revised to read as follows:

§ 520.14 Special permission.

* * * * *

(c) * * *

(1) * * * Every such application must be submitted to the Bureau of Trade Analysis and be accompanied by a filing fee of $299.

* * * * *

PART 530—SERVICE CONTRACTS

■ 18. The authority citation for Part 530 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40301–40306, 40501–40503, 41307.

Subpart B—Filing Requirements

■ 19. In § 530.10, paragraph (c) introductory text is revised to read as follows:

§ 530.10 Amendment, correction, cancellation, and electronic transmission errors.

* * * * *

(c) *Corrections.* Requests must be filed, in duplicate, with the Commission's Office of the Secretary within forty-five (45) days of the contract's filing with the Commission, accompanied by remittance of an $95 service fee, and must include:

* * * * *

PART 531—NVOCC SERVICE ARRANGEMENTS

■ 20. The authority citation for Part 531 continues to read as follows:

Authority: 46 U.S.C. 40103.

■ 21. In § 531.8 paragraph (b)(1) is revised to read as follows:

§ 531.8 Amendment, correction, cancellation, and electronic transmission errors.

* * * * *

(b) * * *

(1) Requests must be filed, in duplicate, with the Commission's Office of the Secretary within forty-five (45) days of the contract's filing with the Commission, accompanied by remittance of an $95 service fee.

* * * * *

PART 535—OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984

■ 22. The authority citation for Part 535 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40101–40104, 40301–40307, 40501–40503, 40901–40904, 41101–41109, 41301–41302, and 41305–41307.

Subpart D—Filing of Agreements

■ 24. In § 535.401 paragraphs (g) and (h) are revised to read as follows:

§ 535.401 General requirements.

* * * * *

(g) *Fees.* The filing fee is $3,218 for new agreements and any agreement modifications requiring Commission review and action; $526 for agreements processed under delegated authority (for types of agreements that can be processed under delegated authority, see § 501.27(e) of this chapter); $303 for carrier exempt agreements; and $90 for terminal exempt agreements.

(h) The fee for a request for expedited review of an agreement pursuant to § 535.605 is $159. This fee must be paid in addition to the carrier agreement filing fee required by paragraph (g) of this section.

PART 540—PASSENGER VESSEL FINANCIAL RESPONSIBILITY

■ 25. The authority citation for Part 540 continues to read as follows:

Authority: 5 U.S.C. 552, 553; 31 U.S.C. 9701; 46 U.S.C. 305, 44101–44106.

Subpart A—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

■ 26. The last two sentences in § 540.4 paragraph (e) are revised to read as follows:

§ 540.4 Procedure for establishing financial responsibility.

* * * * *

(e) * * * An application for a Certificate (Performance), excluding an application for the addition or substitution of a vessel to the applicant's fleet, must be accompanied by a filing fee remittance of $2,284 An application for a Certificate (Performance) for the addition or substitution of a vessel to the applicant's fleet must be accompanied by a filing fee remittance of $1,224.

* * * * *

Subpart B—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

■ 27. The last two sentences in § 540.23 paragraph (b) are revised to read as follows:

§ 540.23 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Casualty), excluding an application for the addition or substitution of a vessel to the applicant's fleet, must be accompanied by a filing fee remittance of $1,085. An application for a Certificate (Casualty) for the addition or substitution of a vessel to the applicant's fleet must be accompanied by a filing fee remittance of $593.

* * * * *

PART 550—REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

■ 28. The authority citation for Part 550 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 301–307; sec. 19 (a)(2), (e), (f), (g), (h), (i), (j), (k) and (l) of the Merchant Marine Act, 1920, 46 U.S.C. 42101 and 42104–42109; and sec. 10002 of the Foreign Shipping Practices Act of 1988, 46 U.S.C. 42301–42307.

Subpart D—Petitions for Section 19 Relief

■ 29. Revise § 550.402 to read as follows:

§ 550.402 Filing of petitions.

Except for petitions for rulemaking, all requests for relief from conditions unfavorable to shipping in the foreign trade must be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part must be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition must be accompanied by remittance of a $289 filing fee.

PART 555—ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S.-FLAG CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

■ 30. The authority citation for Part 555 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. 42301–42307).

■ 31. The last sentence in § 555.4 paragraph (a) is revised to read as follows:

§ 555.4 Petitions.

(a) * * * The petition must be accompanied by remittance of a $289 filing fee.

* * * * *

PART 560—ACTIONS TO ADDRESS CONDITIONS UNDULY IMPAIRING ACCESS OF U.S.-FLAG VESSELS TO OCEAN TRADE BETWEEN FOREIGN PORTS

■ 32. The authority citation for Part 560 continues to read as follows:

Authority: 5 U.S.C. 553; secs. 13(b)(6), 15 and 17 of the Shipping Act of 1984, 46 U.S.C. 305, 40104, and 41108(d); sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. 42301–42307).

■ 33. The last sentence in § 560.3 paragraph (a)(2) is revised to read as follows:

§ 560.3 Petitions for relief.

(a) * * *

(2) * * * The petition must be accompanied by remittance of a $289 filing fee.

* * * * *

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–20647 Filed 8–26–16; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[[WT Docket No. 15–180; DA 16–900]

First Amendment to Collocation Agreement

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireless Telecommunications Bureau (WTB or Bureau) of the Federal Communications Commission (FCC or Commission) announces that on August 3, 2016, the FCC, the Advisory Council on Historic Preservation (Council or ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) executed the attached *First Amendment to Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (First Amendment to the Collocation Agreement) to address the review of deployments of small wireless antennas and associated equipment under Section 106 of the National Historic Preservation Act (NHPA). The First Amendment to the Collocation Agreement amends the *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (Collocation Agreement).

DATES: This amendment to 47 CFR part 1, appendix B, of the FCC's rules is effective August 29, 2016, except for Stipulation VII.C, which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that Stipulation. The First Amendment to the Collocation Agreement took effect on August 3, 2016, upon execution by the parties.

FOR FURTHER INFORMATION CONTACT: Stephen DelSordo, of the Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, (202) 418–1986 or *Stephen.delsordo@fcc.gov* or Paul D'Ari of the Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, (202) 418–1550, *Paul.DAri@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the document in WT Docket No. 15–180, DA No. 16–900, released as a Public Notice by WTB on August 8, 2016 (document or *Public Notice*), to announce execution of the First Amendment to the Collocation Agreement. The full text of this document is available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Also, it may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554; the contractor's Web site, *http://www.bcpiweb.com;* or by calling (800) 378–3160, facsimile (202) 488–5563, or email *FCC@BCPIWEB.com.* This Public Notice will also be available via *www.fcc.gov/ecfs.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

I. Background

1. The document announced that the FCC, ACHP, and NCHPO had executed the First Amendment to the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas. The FCC, the Council, and NCSHPO agreed to amend the Collocation Agreement, which is codified at 47 CFR, part 1, appendix B, to account for the limited potential of small wireless antennas and associated equipment, including Distributed Antenna Systems (DAS) and small cell facilities, to affect historic properties.

2. The amendment establishes new exclusions from the Section 106 review process for physically small deployments like DAS and small cells, fulfilling a directive in the Infrastructure Report and Order, 80 FR 1238, Jan. 8, 2015, (Infrastructure Report and Order) to further streamline review of these installations. These new exclusions will reduce the cost, time, and burden associated with deploying small facilities in many settings, and provide opportunities to increase densification at low cost and with very little impact on historic properties. Facilitating these deployments thus directly advances efforts to roll out 5G service in communities across the country.

3. To fulfill its responsibilities under Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108 (formerly codified at 16 U.S.C. 470(f)), the Commission incorporated the requirements of Section 106 of the NHPA, into its environmental rules. Section 1.1307(a)(4), 47 CFR 1.1307(a)(4), of the Commission's rules directs licensees and applicants to follow the procedures set forth in the ACHP's rules, as modified by two programmatic agreements executed by the Commission with ACHP and NCSHPO, in order to determine whether certain undertakings will affect historic properties. The Collocation Agreement, 47 CFR part 1, app. B, addresses historic preservation review for collocations on existing towers, buildings, and other non-tower structures. Under the Collocation Agreement, most antenna collocations on existing structures are excluded from Section 106 historic preservation review, with a few exceptions defined to address potentially problematic situations. The other programmatic agreement, the *Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission* (NPA), 47 CFR part 1, app. C, establishes detailed procedures for the Section 106 review process as applied to the construction of communications facilities regulated by the Commission, consistent with the goal of the NHPA to protect historic properties.

4. In the Infrastructure Report and Order, the Commission recognized that small deployments like DAS and small cells use components that are a fraction of the size of traditional cell tower deployments and can often be installed on utility poles, buildings, and other existing structures with limited or no potential to cause adverse effects on historic properties. Accordingly, the Commission eliminated some routine Section 106 reviews by adopting two targeted exclusions for certain small-facility collocations on utility structures and on buildings and other non-tower structures, provided that they meet certain specified criteria. The Commission also stated that there is room for additional improvement in this area, determined that any more comprehensive measures would require additional consideration, and found that such measures would be more appropriately addressed and developed through the program alternative process. The Commission committed to work with ACHP and other interested parties to develop a program alternative to promote additional appropriate efficiencies in the historic preservation review of DAS and small-cell deployments.

5. The Bureau formally commenced this proceeding on July 28, 2015, by releasing a Public Notice and Section 106 Scoping Document (Section 106 Scoping Document) inviting comment on a proposal to amend the Collocation Agreement to facilitate the review process for deployments of small wireless communications facilities under Section 106 of the NHPA After considering the comments filed in response to the Section 106 Scoping Document and additional information provided in meetings with State Historic Preservation Officers (SHPOs), Tribal historic preservation officers (THPOs),

Tribal Nations, industry representatives and other interested parties, the Bureau worked with ACHP and NCSHPO to develop a specific proposal. It released and sought public comment on this proposed amendment to the Collocation Agreement by Public Notice released on May 12, 2016, 81 FR 39611, June 17, 2016. Comments filed in response to the Public Notice, as well as the Scoping Document Public Notice and the Section 106 Scoping Document may be found in the Commission's Electronic Comment Filing System.

II. Discussion

6. Following their review of the comments filed in response to the Public Notice released on May 12, 2016, as well as other information provided by interested parties, the Bureau, ACHP, and NCSHPO finalized and executed this amendment to the Collocation Agreement. As summarized below, the amendment tailors the Section 106 process for small wireless deployments by excluding deployments that have minimal potential for adverse effects on historic properties.

7. *Exclusion For Collocation of Small Wireless Antennas and Associated Equipment on Buildings and Non-Tower Structures That Are Outside of Historic Districts And Are Not Historic Properties.* The original Collocation Agreement provides an exclusion for collocations that are outside of historic districts on buildings and non-tower structures that are not more than 45 years of age. The amendment adds new Stipulation VI, which establishes an exclusion for collocations on buildings or non-tower structures that are over 45 years of age if they are not historic properties and are outside of historic districts. In particular, this new exclusion, provides that a small wireless antenna may be mounted on an existing building or non-tower structure, regardless of the building's or structure's age, without review under the Section 106 process set forth in the NPA unless: (1) The building or structure is inside the boundary of a historic district or, if the antenna is visible from the ground level of a historic district, the building or structure is within 250 feet of the boundary of the historic district; (2) the building or non-tower structure is a designated National Historic Landmark; or (3) the building or non-tower structure is listed in or eligible for listing in the National Register of Historic Places. In addition, this exclusion establishes volumetric limits for antennas and its associated equipment, as well as restrictions on ground disturbance.

8. *Exclusion for Collocation of Small or Minimally Visible Wireless Antennas and Associated Equipment on Structures in Historic Districts or on Historic Properties.* Stipulation VII.A provides an exclusion from review for a collocation mounted on a building or non-tower structure that is a historic property or inside or within 250 feet of the boundary of a historic district, subject to visibility limits, and provided that the property on which the equipment will be deployed is not a designated National Historic Landmark. Under this exclusion, the antenna or antenna enclosure must be the only equipment that is visible from the ground level, and the antenna or enclosure must not exceed 3 cubic feet in volume, and must be installed using concealment techniques that match or complement the structure on which or within which it is deployed. No other antenna on the building or non-tower structure may be visible from the ground level. In addition, the amendment includes provisions restricting the visibility of an antenna's associated equipment. The amendment also includes limits on the extent of ground disturbance associated with the collocation, and on the number and size of lightning grounding rods that may be installed.

9. Stipulation VII.B generally provides an exclusion for a small wireless deployment on a utility pole or electric transmission tower located inside or near a historic district, provided that the utility pole or electric transmission tower is in active use by a utility company and the deployment does not exceed specific volume limits. The amendment also contains restrictions on the extent of ground disturbance associated with the deployment.

10. Stipulation VII.C provides an exclusion in certain cases for collocations on traffic lights, light poles, lamp posts, or other structures whose primary purpose is to provide public lighting where the structures are located inside or near a historic district. This exclusion is generally available only on a case-by-case basis, on the condition that the applicant or licensee finds that the structure is not a contributing or compatible element within the historic district and the SHPO concurs with this determination. The collocation also must meet specified volumetric and comply with restrictions on ground disturbance.

11. *Replacements of Small Wireless Antennas and Associated Equipment.* Stipulation VIII generally excludes replacements from routine Section 106 review when the support structure is (1) a historic property, (2) inside or near a historic district, or (3) over 45 years of age. The replacement is excluded from review, regardless of visibility, provided that (1) the antenna deployment being replaced has undergone Section 106 review (unless such review was not required at the time that the antenna being replaced was installed); (2) the facility is an in-kind replacement for an existing facility, and (3) the new deployment does not exceed specified size limits.

12. *Collocations in the Interior of a Building.* The amendment also excludes from historic preservation review collocations in the interior of a building. Stipulation V.B provides that an antenna and its associated equipment installed in the interior of a building is generally excluded from review, regardless of the building's age or its location in a historic district and regardless of the antenna's size, provided that the building is not a National Historic Landmark, or listed in or eligible for listing in the National Register. A collocation in the interior of a building that is listed in or eligible for listing the National Register is excluded from routine historic preservation review, but it is subject to strict visibility limits, the property in which the equipment will be deployed may not be a designated National Historic Landmark, and it may not be located in or near a historic district.

13. *Installations in or on Historic Buildings or Structures.* Stipulations VI, and VII provide that the antennas and associated equipment deployed on buildings and other structures or in the interior of buildings must be installed in ways that do not damage historic materials and permit removal of such facilities without damaging historic materials.

14. *Pending Complaints.* A proposed collocation is not eligible for an exclusion under this agreement if the licensee or the owner of the building or non-tower structure has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a Tribal Nation, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties.

15. Finally, the amended agreement affects only the FCC's review process under Section 106 of the NHPA, and will not limit State and local governments' authority to enforce their own historic preservation requirements consistent with Section 332(c)(7) of the Communications Act and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. In addition, the terms of this amendment to the Collocation Agreement do not

apply on "tribal lands" as defined under Section 800.16(x) of the Council's regulations, 36 CFR 800.16(x), and the terms do not preclude federally recognized Tribal Nations or Native Hawaiian Organizations (NHOs) from consulting directly with the FCC or its licensees.

III. Procedural Matters

16. *Final Paperwork Reduction Act Analysis.* Stipulation VII.C of the First Amendment to the Collocation Agreement contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Stipulation VII.C will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

17. *Congressional Review Act.* Congressional Review Act. The Commission will not send a copy of the First Amendment to the Collocation Agreement, appended for reference as 47 CFR part 1, app. B, to Congress and the General Accountability Office pursuant to the Congressional Review Act (CRA) because the First Amendment is not a rule as defined in the CRA, *see* 5 U.S.C. 804(3).

List of Subjects in 47 CFR Part 1

Administrative practice and procedures, Telecommunications.

Federal Communications Commission.

Sue McNeil,

Chief of Staff, Wireless Telecommunications Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 continues to read:

Authority: 47 U.S.C. 151, 154(i), 155, 157, 225, 303(r), 309, 1403, 1404, 1451, and 1452.

■ 2. Appendix B to part 1 is revised to read as follows:

Appendix B to Part 1—Nationwide Programmatic Agreement for the Collocation of Wireless Antennas

First Amendment to NATIONWIDE PROGRAMMATIC AGREEMENT

For the COLLOCATION OF WIRELESS ANTENNAS

Executed by The FEDERAL COMMUNICATIONS COMMISSION, The NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS and The ADVISORY COUNCIL ON HISTORIC PRESERVATION

WHEREAS, the Federal Communications Commission (FCC), the Advisory Council on Historic Preservation (the Council) and the National Conference of State Historic Preservation Officers (NCSHPO) executed this Nationwide Collocation Programmatic Agreement on March 16, 2001 in accordance with 36 CFR Section 800.14(b) to address the Section 106 review process as it applies to the collocation of antennas; and,

WHEREAS, the FCC encourages collocation of antennas where technically and economically feasible, in order to reduce the need for new tower construction; and in its Wireless Infrastructure Report and Order, WT Docket No. 13–238, et al, released October 21, 2014, adopted initial measures to update and tailor the manner in which it evaluates the impact of proposed deployments on the environment and historic properties and committed to expeditiously conclude a program alternative to implement additional improvements in the Section 106 review process for small deployments that, because of their characteristics, are likely to have minimal and not adverse effects on historic properties; and,

WHEREAS, the Middle Class Tax Relief and Job Creation Act of 2012 (Title VI — Public Safety Communications and Electromagnetic Spectrum Auctions, Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156 (2012)) was adopted with the goal of advancing wireless broadband services, and the amended provisions in this Agreement further that goal; and,

WHEREAS, advances in wireless technologies since 2001 have produced systems that use smaller antennas and compact radio equipment, including those used in Distributed Antenna Systems (DAS) and small cell systems, which are a fraction of the size of traditional cell tower deployments and can be installed on utility poles, buildings, and other existing structures as collocations; and,

WHEREAS, the parties to this Collocation Agreement have taken into account new technologies involving use of small antennas that may often be collocated on utility poles, buildings, and other existing structures and increase the likelihood that such collocations will have minimal and not adverse effects on historic properties, and rapid deployment of such infrastructure may help meet the surging demand for wireless services, expand broadband access, support innovation and wireless opportunity, and enhance public safety—all to the benefit of consumers and the communities in which they live; and,

WHEREAS, the FCC, the Council, and NCSHPO have agreed that these new measures should be incorporated into this Collocation Agreement to better manage the Section 106 consultation process and streamline reviews for collocation of antennas; and,

WHEREAS, the FCC, the Council, and NCSHPO have crafted these new measures with the goal of promoting technological neutrality, with the goal of obviating the need for further amendments in the future as technologies evolve; and,

WHEREAS, notwithstanding the intent to draft provisions in a manner that obviates the need for future amendments, in light of the public benefits associated with rapid deployment of the facilities required to provide broadband wireless services, the FCC, the Council, and NCSHPO have agreed that changes in technology and other factors relating to the placement and operation of wireless antennas and associated equipment may necessitate further amendments to this Collocation Agreement in the future; and,

WHEREAS, the FCC, the Council, and NCSHPO have agreed that with respect to the amendments involving the use of small antennas, such amendments affect only the FCC's review process under Section 106 of the NHPA, and will not limit State and local governments' authority to enforce their own historic preservation requirements consistent with Section 332(c)(7) of the Communications Act and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012; and,

WHEREAS, the FCC, the Council, and NCSHPO acknowledge that federally recognized Indian tribes (Indian tribes), Native Hawaiian Organizations (NHOs), SHPO/THPOs, local governments, and members of the public make important contributions to the Section 106 review process, in accordance with Section 800.2(c) & (d) of the Council's rules, and note that the procedures for appropriate public notification and participation in connection with the Section 106 process are set forth the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (NPA); and,

WHEREAS, the parties hereto agree that the amended procedures described in this amendment to the Collocation Agreement are, with regard to collocations as defined herein, a proper substitute for the FCC's compliance with the Council's rules, in accordance and consistent with Section 106 of the National Historic Preservation Act and its implementing regulations found at 36 CFR part 800; and,

WHEREAS, the FCC sought comment from Indian tribes and Native Hawaiian Organizations regarding the terms of this amendment to the Collocation Agreement by letters dated April 17, 2015, July 28, 2015, and May 12, 2016, as well as during face-to-face meetings and conference calls, including during the Section 106 Summit in conjunction with the 2015 annual conference of the National Association of Tribal Historic Preservation Officers (NATHPO); and, WHEREAS, the terms of this amendment to the Collocation Agreement do not apply on "tribal lands" as defined under Section 800.16(x) of the Council's regulations, 36 CFR 800.16(x) ("Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities."); and,

WHEREAS, the terms of this amendment to the Collocation Agreement do not preclude Indian tribes or NHOs from consulting directly with the FCC or its licensees, tower companies and applicants for antenna licenses when collocation activities off tribal lands may affect historic properties of religious and cultural significance to Indian tribes or NHOs; and,

WHEREAS, the execution and implementation of this amendment to the Collocation Agreement will not preclude members of the public from filing complaints with the FCC or the Council regarding adverse effects on historic properties from any existing tower or any activity covered under the terms of this Collocation Agreement;

NOW THEREFORE, in accordance with Stipulation XI (as renumbered by this amendment), the FCC, the Council, and NCSHPO agree to amend the Collocation Agreement to read as follows:

NATIONWIDE PROGRAMMATIC AGREEMENT

For the COLLOCATION OF WIRELESS ANTENNAS

Executed by The FEDERAL COMMUNICATIONS COMMISSION, The NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS and The ADVISORY COUNCIL ON HISTORIC PRESERVATION

WHEREAS, the Federal Communications Commission (FCC) establishes rules and procedures for the licensing of wireless communications facilities in the United States and its Possessions and Territories; and,

WHEREAS, the FCC has largely deregulated the review of applications for the construction of individual wireless communications facilities and, under this framework, applicants are required to prepare an Environmental Assessment (EA) in cases where the applicant determines that the proposed facility falls within one of certain environmental categories described in the FCC's rules (47 CFR 1.1307), including situations which may affect historical sites listed or eligible for listing in the National Register of Historic Places ("National Register"); and,

WHEREAS, Section 106 of the National Historic Preservation Act (54 U.S.C. 300101 et seq.) ("the Act") requires federal agencies to take into account the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment; and,

WHEREAS, Section 800.14(b) of the Council's regulations, "Protection of Historic Properties" (36 CFR 800.14(b)), allows for programmatic agreements to streamline and tailor the Section 106 review process to particular federal programs; and,

WHEREAS, in August 2000, the Council established a Telecommunications Working Group to provide a forum for the FCC, Industry representatives, State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs), and the Council to discuss improved coordination of Section 106 compliance regarding wireless communications projects affecting historic properties; and,

WHEREAS, the FCC, the Council and the Working Group have developed this Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b) to address the Section 106 review process as it applies to the collocation of antennas (collocation being defined in Stipulation I.B below); and,

WHEREAS, the FCC encourages collocation of antennas where technically and economically feasible, in order to reduce the need for new tower construction; and,

WHEREAS, the parties hereto agree that the effects on historic properties of collocations of antennas on towers, buildings and structures are likely to be minimal and not adverse, and that in the cases where an adverse effect might occur, the procedures provided and referred to herein are proper and sufficient, consistent with Section 106, to assure that the FCC will take such effects into account; and,

WHEREAS, the execution of this Nationwide Collocation Programmatic Agreement will streamline the Section 106 review of collocation proposals and thereby reduce the need for the construction of new towers, thereby reducing potential effects on historic properties that would otherwise result from the construction of those unnecessary new towers; and,

WHEREAS, the FCC and the Council have agreed that these measures should be incorporated into a Nationwide Programmatic Agreement to better manage the Section 106 consultation process and streamline reviews for collocation of antennas; and,

WHEREAS, since collocations reduce both the need for new tower construction and the potential for adverse effects on historic properties, the parties hereto agree that the terms of this Agreement should be interpreted and implemented wherever possible in ways that encourage collocation; and,

WHEREAS, the parties hereto agree that the procedures described in this Agreement are, with regard to collocations as defined herein, a proper substitute for the FCC's compliance with the Council's rules, in accordance and consistent with Section 106 of the National Historic Preservation Act and its implementing regulations found at 36 CFR part 800; and,

WHEREAS, the FCC has consulted with the National Conference of State Historic Preservation Officers (NCSHPO) and requested the President of NCSHPO to sign this Nationwide Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b)(2)(iii); and,

WHEREAS, the FCC sought comment from Indian tribes and Native Hawaiian Organizations (NHOs) regarding the terms of this Nationwide Programmatic Agreement by letters of January 11, 2001 and February 8, 2001; and,

WHEREAS, the terms of this Programmatic Agreement do not apply on "tribal lands" as defined under Section 800.16(x) of the Council's regulations, 36 CFR 800.16(x) ("Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities."); and,

WHEREAS, the terms of this Programmatic Agreement do not preclude Indian tribes or Native Hawaiian Organizations from consulting directly with the FCC or its licensees, tower companies and applicants for antenna licenses when collocation activities off tribal lands may affect historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations; and,

WHEREAS, the execution and implementation of this Nationwide Collocation Programmatic Agreement will not preclude Indian tribes or NHOs, SHPO/THPOs, local governments, or members of the public from filing complaints with the FCC or the Council regarding adverse effects on historic properties from any existing tower or any activity covered under the terms of this Programmatic Agreement.

NOW THEREFORE, the FCC, the Council, and NCSHPO agree that the FCC will meet its Section 106 compliance responsibilities for the collocation of antennas as follows.

STIPULATIONS

The FCC, in coordination with licensees, tower companies, applicants for antenna licenses, and others deemed appropriate by the FCC, will ensure that the following measures are carried out.

I. DEFINITIONS

For purposes of this Nationwide Programmatic Agreement, the following definitions apply.

A. "Antenna" means an apparatus designed for the purpose of emitting radio frequency ("RF") radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a Tower, structure, or building as part of the original installation of the antenna. For purposes of this Agreement, the term Antenna does not include unintentional radiators, mobile stations, or devices authorized under Part 15 of the FCC's rules.

B. "Collocation" means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

C. "NPA" is the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (47 CFR part 1, App. C).

D. "Tower" is any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

E. "Substantial increase in the size of the tower" means:

1) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

3) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

4) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

II. APPLICABILITY

A. This Nationwide Collocation Programmatic Agreement applies only to the collocation of antennas as defined in Stipulations I.A and I.B, above.

B. This Nationwide Collocation Programmatic Agreement does not cover any Section 106 responsibilities that federal agencies other than the FCC may have with regard to the collocation of antennas.

III. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED ON OR BEFORE MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed on or before March 16, 2001 without such collocation being reviewed through the Section 106 process set forth in the NPA, unless:

1. The mounting of the antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.E, above; or,

2. The tower has been determined by the FCC to have an adverse effect on one or more historic properties, where such effect has not been avoided or mitigated through a conditional no adverse effect determination, a Memorandum of Agreement, a programmatic agreement, or a finding of compliance with Section 106 and the NPA; or,

3. The tower is the subject of a pending environmental review or related proceeding before the FCC involving compliance with Section 106 of the National Historic Preservation Act; or,

4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

IV. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED AFTER MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed after March 16, 2001 without such collocation being reviewed through the Section 106 process set forth in the NPA, unless:

1. The Section 106 review process for the existing tower set forth in 36 CFR part 800 (including any applicable program alternative approved by the Council pursuant to 36 CFR 800.14) and any associated environmental reviews required by the FCC have not been completed; or,

2. The mounting of the new antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.E, above; or,

3. The tower as built or proposed has been determined by the FCC to have an adverse effect on one or more historic properties, where such effect has not been avoided or mitigated through a conditional no adverse effect determination, a Memorandum of Agreement, a Programmatic Agreement, or otherwise in compliance with Section 106 and the NPA; or,

4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

V. COLLOCATION OF ANTENNAS ON BUILDINGS AND NON-TOWER STRUCTURES

A. An antenna may be mounted on a building or non-tower structure without such collocation being reviewed through the Section 106 process set forth in the NPA, unless:

1. The building or structure is over 45 years old, and the collocation does not meet the criteria established in Stipulation VI herein for collocations of small antennas;[1] or,

2. The building or structure is inside the boundary of a historic district, or if the antenna is visible from the ground level of a historic district, the building or structure is within 250 feet of the boundary of the historic district, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or,

3. The building or non-tower structure is a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places based upon the review of the FCC, licensee, tower company or applicant for an antenna license, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or,

4. The collocation licensee or the owner of the building or non-tower structure has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

B. An antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted in the interior of a building, regardless of the building's age or location in a historic district and regardless of the antenna's size, without such collocation being reviewed through the Section 106 process set forth in the NPA, unless:

1) The building is a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places; or,

2) The collocation licensee or the owner of the building has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

C. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation V has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the requirements of Section 106 and the NPA for this particular collocation.

VI. ADDITIONAL EXCLUSION FOR COLLOCATION OF SMALL WIRELESS ANTENNAS AND ASSOCIATED EQUIPMENT ON BUILDING AND NON-TOWER STRUCTURES THAT ARE OUTSIDE OF HISTORIC DISTRICTS AND ARE NOT HISTORIC PROPERTIES

A. A small wireless antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on an existing building or non-tower structure or in the interior of a building regardless of the building's or structure's age without such collocation being reviewed through the Section 106 process set forth in the NPA unless:

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[1] For purposes of this Agreement, suitable methods for determining the age of a building or structure include, but are not limited to: (1) Obtaining the opinion of a consultant who meets the Secretary of Interior's Professional Qualifications Standards for Historian or for Architectural Historian (36 CFR part 61); or (2) consulting public records.

1. The building or structure is inside the boundary of a historic district, or if the antenna is visible from the ground level of a historic district, the building or structure is within 250 feet of the boundary of the historic district, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or,

2. The building or non-tower structure is a designated National Historic Landmark; or,

3. The building or non-tower structure is listed in or eligible for listing in the National Register of Historic Places, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or,

4. The collocation licensee or the owner of the building or non-tower structure has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register; or,

5. The antennas and associated equipment exceed the volume limits specified below:

a. Each individual antenna, excluding the associated equipment (as defined in the definition of Antenna in Stipulation I.A.), that is part of the collocation must fit within an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.,* one that would be the correct size to contain the equipment) that is individually no more than three cubic feet in volume, and all antennas on the structure, including any pre-existing antennas on the structure, must in aggregate fit within enclosures (or if the antennas are exposed, within imaginary enclosures, *i.e.,* ones that would be the correct size to contain the equipment) that total no more than six cubic feet in volume; and,

b. All other wireless equipment associated with the structure, including pre-existing enclosures and including equipment on the ground associated with antennas on the structure, but excluding cable runs for the connection of power and other services, may not cumulatively exceed:

i. 28 cubic feet for collocations on all non-pole structures (including but not limited to buildings and water tanks) that can support fewer than 3 providers; or,

ii. 21 cubic feet for collocations on all pole structures (including but not limited to light poles, traffic signal poles, and utility poles) that can support fewer than 3 providers; or,

iii. 35 cubic feet for non-pole collocations that can support at least 3 providers; or,

iv. 28 cubic feet for pole collocations that can support at least 3 providers; or,

6. The depth and width of any proposed ground disturbance associated with the collocation exceeds the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project regardless of the extent of previous ground disturbance.

B. The volume of any deployed equipment that is not visible from public spaces at the ground level from 250 feet or less may be omitted from the calculation of volumetric limits cited in this Section.

C. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation VI has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the requirements of Section 106 and the NPA for this particular collocation.

VII. ADDITIONAL EXCLUSIONS FOR COLLOCATION OF SMALL OR MINIMALLY VISIBLE WIRELESS ANTENNAS AND ASSOCIATED EQUIPMENT IN HISTORIC DISTRICTS OR ON HISTORIC PROPERTIES

A. A small antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on a building or non-tower structure or in the interior of a building that is (1) a historic property (including a property listed in or eligible for listing in the National Register of Historic Places) or (2) inside or within 250 feet of the boundary of a historic district without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The property on which the equipment will be deployed is not a designated National Historic Landmark.

2. The antenna or antenna enclosure (including any existing antenna), excluding associated equipment, is the only equipment that is visible from the ground level, or from public spaces within the building (if the antenna is mounted in the interior of a building), and provided that the following conditions are met:

a. No other antennas on the building or non-tower structure are visible from the ground level, or from public spaces within the building (for an antenna mounted in the interior of a building);

b. The antenna that is part of the collocation fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure *i.e.,* one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume; and,

c. The antenna is installed using stealth techniques that match or complement the structure on which or within which it is deployed;

3. The antenna's associated equipment is not visible from:

a. The ground level anywhere in a historic district (if the antenna is located inside or within 250 feet of the boundary of a historic district); or,

b. Immediately adjacent streets or public spaces at ground level (if the antenna is on a historic property that is not in a historic district); or,

c. Public spaces within the building (if the antenna is mounted in the interior of a building).

4. The facilities (including antenna(s) and associated equipment identified in the definition of Antenna in Stipulation I.A.) are installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials;

5. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance; and

6. The collocation licensee or the owner of the building or non-tower structure has not received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

B. A small antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on a utility pole or electric transmission tower (but not including light poles, lamp posts, and other structures whose primary purpose is to provide public lighting) that is in active use by a utility company (as defined in Section 224 of the Communications Act) or by a cooperatively-owned, municipal, or other governmental agency and is either: (1) A historic property (including a property listed in or eligible for listing in the National Register of Historic Places); (2) located on a historic property (including a property listed in or eligible for listing in the National Register of Historic Places); or (3) located inside or within 250 feet of the boundary of a historic district, without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The utility pole or electric transmission tower on which the equipment will be deployed is not located on a designated National Historic Landmark;

2. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.,* one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure;

3. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection

of power and other services, are cumulatively no more than 21 cubic feet in volume;

4. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance; and

5. The collocation licensee or the owner of the utility pole or electric transmission tower has not received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

C. Proposals to mount a small antenna on a traffic control structure (*i.e.,* traffic light) or on a light pole, lamp post or other structure whose primary purpose is to provide public lighting, where the structure is located inside or within 250 feet of the boundary of a historic district, are generally subject to review through the Section 106 process set forth in the NPA. These proposed collocations will be excluded from such review on a case-by-case basis, if (1) the collocation licensee or the owner of the structure has not received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties; and (2) the structure is not historic (not a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places) or considered a contributing or compatible element within the historic district, under the following procedures:

1. The applicant must request in writing that the SHPO concur with the applicant's determination that the structure is not a contributing or compatible element within the historic district.

2. The applicant's written request must specify the traffic control structure, light pole, or lamp post on which the applicant proposes to collocate and explain why the structure is not a contributing element based on the age and type of structure, as well as other relevant factors.

3. The SHPO has thirty days from its receipt of such written notice to inform the applicant whether it disagrees with the applicant's determination that the structure is not a contributing or compatible element within the historic district.

4. If within the thirty-day period, the SHPO informs the applicant that the structure is a contributing element or compatible element within the historic district or that the applicant has not provided sufficient information for a determination, the applicant may not deploy its facilities on that structure without completing the Section 106 review process.

5. If, within the thirty day period, the SHPO either informs the applicant that the structure is not a contributing or compatible element within the historic district, or the SHPO fails to respond to the applicant within the thirty-day period, the applicant has no further Section 106 review obligations, provided that the collocation meets the following requirements:

a. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.,* one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure;

b. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection of power and other services, are cumulatively no more than 21 cubic feet in volume; and,

c. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance.

D. A small antenna mounted inside a building or non-tower structure and subject to the provisions of this Stipulation VII is to be installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials.

E. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation VII has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the requirements of Section 106 and the NPA for this particular collocation.

VIII. REPLACEMENTS ON SMALL WIRELESS ANTENNAS AND ASSOCIATED EQUIPMENT

A. An existing small antenna that is mounted on a building or non-tower structure or in the interior of a building that is (1) a historic property (including a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places); (2) inside or within 250 feet of the boundary of a historic district; or (3) located on or inside a building or non-tower structure that is over 45 years of age, regardless of visibility, may be replaced without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The antenna deployment being replaced has undergone Section 106 review, unless either (a) such review was not required at the time that the antenna being replaced was installed, or (b) for deployments on towers, review is not required pursuant to Stipulation III above.

2. The facility is a replacement for an existing facility, and it does not exceed the greater of:

a. The size of the existing antenna/antenna enclosure and associated equipment that is being replaced; or,

b. The following limits for the antenna and its associated equipment:

i. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.,* one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure; and,

ii. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection of power and other services, are cumulatively no more than 21 cubic feet in volume; and,

3. The replacement of the facilities (including antenna(s) and associated equipment as defined in Stipulation I.A.) does not damage historic materials and permits removal of such facilities without damaging historic materials; and,

4. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance.

B. A small antenna mounted inside a building or non-tower structure and subject to the provisions of this Stipulation VIII is to be installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials.

IX. RESERVATION OF RIGHTS

Neither execution of this Agreement, nor implementation of or compliance with any term herein shall operate in any way as a waiver by any party hereto, or by any person or entity complying herewith or affected hereby, of a right to assert in any court of law any claim, argument or defense regarding the validity or interpretation of any provision of the National Historic Preservation Act (54 U.S.C. 300101 *et seq.*) or its implementing regulations contained in 36 CFR part 800.

X. MONITORING

A. FCC licensees shall retain records of the placement of all licensed antennas, including collocations subject to this Nationwide Programmatic Agreement, consistent with FCC rules and procedures.

B. The Council will forward to the FCC and the relevant SHPO any written objections it receives from members of the public regarding a collocation activity or general compliance with the provisions of this Nationwide Programmatic Agreement within thirty (30) days following receipt of the written objection. The FCC will forward a copy of the written objection to the appropriate licensee or tower owner.

C. Any member of the public may notify the FCC of concerns it has regarding the application of this Programmatic Agreement within a State or with regard to the review of individual undertakings covered or excluded under the terms of this Agreement. Comments shall be directed to the FCC's Federal Preservation Officer. The FCC will consider public comments and, following consultation with the SHPO, potentially affected Tribes, or the Council, as appropriate, take appropriate actions. The FCC shall notify the objector of the outcome of its actions.

XI. AMENDMENTS

If any signatory to this Nationwide Collocation Programmatic Agreement believes that this Agreement should be amended, that signatory may at any time propose amendments, whereupon the signatories will consult to consider the amendments. This agreement may be amended only upon the written concurrence of the signatories.

XII. TERMINATION

A. If the FCC determines, or if NCSHPO determines on behalf of its members, that it or they cannot implement the terms of this Nationwide Collocation Programmatic Agreement, or if the FCC, NCSHPO or the Council determines that the Programmatic Agreement is not being properly implemented or that the spirit of Section 106 is not being met by the parties to this Programmatic Agreement, the FCC, NCSHPO or the Council may propose to the other signatories that the Programmatic Agreement be terminated.

B. The party proposing to terminate the Programmatic Agreement shall notify the other signatories in writing, explaining the reasons for the proposed termination and the particulars of the asserted improper implementation. Such party also shall afford the other signatories a reasonable period of time of no less than thirty (30) days to consult and remedy the problems resulting in improper implementation. Upon receipt of such notice, the parties shall consult with each other and notify and consult with other entities that either are involved in such implementation or would be substantially affected by termination of this Agreement, and seek alternatives to termination. Should the consultation fail to produce within the original remedy period or any extension a reasonable alternative to termination, a resolution of the stated problems, or convincing evidence of substantial implementation of this Agreement in accordance with its terms, this Programmatic Agreement shall be terminated thirty days after notice of termination is served on all parties and published in the **Federal Register**.

C. In the event that the Programmatic Agreement is terminated, the FCC shall advise its licensees and tower owner and management companies of the termination and of the need to comply with any applicable Section 106 requirements on a case-by-case basis for collocation activities.

XIII. ANNUAL MEETING OF THE SIGNATORIES

The signatories to this Nationwide Collocation Programmatic Agreement will meet annually on or about the anniversary of the effective date of the NPA to discuss the effectiveness of this Agreement and the NPA, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Agreement.

XIV. DURATION OF THE PROGRAMMATIC AGREEMENT

This Programmatic Agreement for collocation shall remain in force unless the Programmatic Agreement is terminated or superseded by a comprehensive Programmatic Agreement for wireless communications antennas.

Execution of this Nationwide Programmatic Agreement by the FCC, NCSHPO and the Council, and implementation of its terms, constitutes evidence that the FCC has afforded the Council an opportunity to comment on the collocation as described herein of antennas covered under the FCC's rules, and that the FCC has taken into account the effects of these collocations on historic properties in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR part 800.

FEDERAL COMMUNICATIONS COMMISSION

Date:

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

Date:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Date:

[FR Doc. 2016–20427 Filed 8–26–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066–5717–02]

RIN 0648–XE820

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason General category retention limit adjustment.

SUMMARY: NMFS is adjusting the Atlantic bluefin tuna (BFT) General category daily retention limit from the default limit of one large medium or giant BFT to five large medium or giant BFT for the September, October through November, and December subquota time periods of the 2016 fishing year. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments, and applies to Atlantic Tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels when fishing commercially for BFT.

DATES: Effective September 1, 2016, through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Atlantic Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The currently codified baseline U.S. quota is 1,058.9 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). Among other things, Amendment 7 revised the allocations to all quota categories, effective January 1, 2015. See § 635.27(a). The currently codified General category quota is 466.7 mt. Each of the General category time periods ("January," June through August, September, October through November, and December) is allocated a portion of the annual General category quota. The codified baseline General category subquotas include 123.7 mt for

September, 60.7 mt for October through November, and 24.3 mt for December. NMFS transferred 21 mt of BFT quota from the December 2016 subquota to the January 2016 subquota period (80 FR 77264, December 14, 2015).

Adjustment of General Category Daily Retention Limit

Unless changed, the General category daily retention limit starting on September 1 would be the default retention limit of one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel per day/trip (§ 635.23(a)(2)). This default retention limit would apply to General category permitted vessels and to HMS Charter/Headboat category permitted vessels when fishing commercially for BFT.

For the 2015 fishing year, NMFS adjusted the daily retention limit from the default level of one large medium or giant BFT to three large medium or giant BFT for the January subquota period (79 FR 77943, December 29, 2014), which closed March 31, 2015 (the regulations allow the General category fishery under the "January" subquota to continue until the subquota is reached, or March 31, whichever comes first); four large medium or giant BFT for the June through August subquota period (80 FR 27863; May 15, 2015) as well as for September 1 through November 27, 2015 (80 FR 51959; August 27, 2015); and three large medium or giant BFT for November 28 through December 31, 2015 (80 FR 74997; December 1, 2015). NMFS adjusted the daily retention limit for the 2016 January subquota period (which closed March 31) from the default level of one large medium or giant BFT to three large medium or giant BFT in the same action as the 24.3–mt transfer from the December 2016 subquota period to the January 2016 subquota period (80 FR 77264; December 14, 2015). For the June through August 2016 subquota period, NMFS adjusted the daily retention limit to five large medium or giant BFT (81 FR 29501; May 12, 2016).

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of five per vessel based on consideration of the relevant criteria provided under § 635.27(a)(8), which are: The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the FMP; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds; optimizing fishing opportunity; accounting for dead discards, facilitating quota monitoring, supporting other fishing monitoring programs through quota allocations and/or generation of revenue; and support of research through quota allocations and/or generation of revenue.

NMFS has considered these criteria and their applicability to the General category BFT retention limit for September through December 2016. These considerations include, but are not limited to, the following: Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock, biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT would support the collection of a broad range of data for these studies and for stock monitoring purposes.

Regarding the effects of the adjustment on BFT rebuilding and overfishing and the effects of the adjustment on accomplishing the objectives of the FMP, as this action would be taken consistent with the previously implemented and analyzed quotas, it is not expected to negatively impact stock health or otherwise affect the stock in ways not previously analyzed, including on rebuilding, overfishing, or the objectives of the FMP. It is also supported by the Environmental Assessment for the 2011 final rule regarding General and Harpoon category management measures, which increased the General category maximum daily retention limit from three to five fish (76 FR 74003; November 30, 2011).

Another principal consideration in setting the retention limit is the objective of providing opportunities to harvest the full General category quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and Amendment 7, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations. This retention limit would be consistent with the quotas established and analyzed in the BFT quota final rule (80 FR 52198; August 28, 2015), and with objectives of the 2006 Consolidated HMS FMP and amendments, and is not expected to negatively impact stock health or to affect the stock in ways not already analyzed in those documents. It is also important that NMFS limit landings to BFT subquotas both to adhere to the FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (*e.g.,* fish caught at each age) that was assumed in the projections of stock rebuilding.

Commercial-size BFT migrated to the fishing grounds off the northeast U.S. coast by early June and are actively being landed. As of August 17, 2016, approximately 210 mt of the 2016 General category quota of 466.7 mt have been landed, and landings rates remain at approximately 1–2 mt per day. Given the rollover of unused quota from one time period to the next, current catch rates, and the fact that the daily retention limit will automatically revert to one large medium or giant BFT per vessel per day on September 1, 2016, absent agency action, NMFS anticipates the full 2016 General category quota may not be harvested. In September through December 2015, under a four-fish limit through November 27 and a three-fish limit November 28 through December 31, BFT landings were approximately 410 mt. See below for description of 2015 quota transfers to the General category. For the entire 2015 fishing year, 131.7 percent and 95.1 percent of the baseline and adjusted General category quota was filled, respectively. However, in 2014, 94.6 percent of the available (*i.e.,* baseline) General category quota was filled under a four-fish limit (*i.e.,* the full 2014 General category quota was not harvested).

Despite elevated General category limits, the vast majority of successful trips (*i.e.,* General or Charter/Headboat trips on which at least one BFT is landed under General category quota) land only one or two BFT. For instance, the landings data for 2015 show that, under the four-fish limit that applied June 1 through November 27, the percentage of trips that landed one, two, three, or four BFT was as follows: 76 percent landed one BFT; 14 percent landed two BFT; 5 percent landed three BFT; and 5 percent landed four BFT. In the last few years, NMFS has received some comments that a high daily retention limit (specifically five fish) is needed to optimize General category fishing opportunities and account for seasonal distributions by enabling vessels to make overnight trips to distant fishing grounds.

NMFS anticipates that some underharvest of the 2015 adjusted U.S. BFT quota will be carried forward to 2016 to the Reserve category, in accordance with the regulations implementing Amendment 7, later this summer when complete BFT catch information for 2015 is available and finalized. This, in addition to the fact that any unused General category quota will roll forward to the next subperiod within the calendar year, makes it possible that General category quota will remain available through the end of 2016 for December fishery participants, even if NMFS sets higher daily retention limits for the earlier periods. NMFS also may choose to transfer unused quota from the Reserve or other categories inseason based on consideration of the regulatory determination criteria, as NMFS did for late 2015 (80 FR 68265, November 4, 2015; 80 FR 74997, December 1, 2015). Those transfers were intended to provide additional opportunities to harvest the U.S. BFT quota without exceeding it. Therefore, NMFS anticipates that General category participants in all areas and time periods will have opportunities to harvest the 2016 General category quota.

A limit lower than five fish could result in unused quota being rolled forward to the subsequent subquota time period in the General category season. Increasing the daily retention limit from the default may prevent rolling an excessive amount of unused quota forward from one subquota time period to the next. Increasing the daily retention limit to five fish will increase the likelihood that the General category BFT landings will approach, but not exceed, the annual quota, as well as increase the opportunity for catching BFT during the September, October through November, and December subquota periods. Increasing opportunity within each subquota period is also important because of the migratory nature and seasonal distribution of BFT. In a particular geographic region, or waters accessible from a particular port, the amount of fishing opportunity for BFT may be constrained by the short amount of time the BFT are present.

Based on these considerations, NMFS has determined that a five-fish General category retention limit is warranted. It would provide a reasonable opportunity to harvest the full U.S. BFT quota (including the expected increase in available 2016 quota based on 2015 underharvest), without exceeding it, while maintaining an equitable distribution of fishing opportunities; help optimize the ability of the General category to harvest its full quota; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006 Consolidated HMS FMP, as amended. Therefore, NMFS increases the General category retention limit from the default limit (one) to five large medium or giant BFT per vessel per day/trip, effective September 1, 2016, through December 31, 2016.

Regardless of the duration of a fishing trip, no more than a single day's retention limit may be possessed, retained, or landed. For example (and specific to the September through December 2016 limit), whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the daily limit of five fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeting fishing for BFT, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to report landings within 24 hours of a dealer receiving BFT. General, HMS Charter/Headboat, Harpoon, and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov.* Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustment or closure is necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

Prior notice is impracticable because the regulations implementing the 2006 Consolidated HMS FMP, as amended, intended that inseason retention limit adjustments would allow the agency to respond quickly to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Based on available BFT quotas, fishery performance in recent years, and the availability of BFT on the fishing grounds, responsive adjustment to the General category BFT daily retention limit from the default level is warranted to allow fishermen to take advantage of the availability of fish and of quota. For such adjustment to be practicable, it must occur in a timeframe that allows fishermen to take advantage of it.

Delays in increasing these retention limits would adversely affect those General and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one BFT per day/trip and may result in low catch rates and quota rollovers. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. With quota available and fish available on the grounds, and with no measurable impacts to the stock, it would be contrary to the public interest to require vessels to wait to harvest the fish allowed through this action. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment.

Adjustment of the General category retention limit needs to be effective September 1, 2016, or as soon as possible thereafter, to minimize any unnecessary disruption in fishing patterns, to allow the impacted sectors to benefit from the adjustment, and to not preclude fishing opportunities for fishermen in geographic areas with access to the fishery only during this time period. Foregoing opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP, as amended. Therefore, the AA finds there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 24, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–20768 Filed 8–25–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 167
Monday, August 29, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 12 and 127

[USCBP–2016–0056]

RIN 1515–AE13

Toxic Substance Control Act Chemical Substance Import Certification Process Revisions

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the U.S. Customs and Border Protection (CBP) regulations regarding the requirement to file a Toxic Substances Control Act (TSCA) certification when importing into the customs territory of the United States chemicals in bulk form or as part of mixtures and articles containing a chemical or mixture. The proposed regulations include an electronic option for filing TSCA certifications, consistent with the Security and Accountability for Every Port Act of 2006. This document also proposes to clarify and add certain definitions, and to eliminate the paper-based blanket certification process. The document was prepared in consultation with the Environmental Protection Agency (EPA), the agency with primary responsibility for implementing TSCA.

DATES: Comments must be received on or before September 28, 2016.

ADDRESSES: You may submit comments, identified by docket number USCBP–2016–0056, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

Instructions: All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP–2016–0056. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of the document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of Trade, Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: For operational issues related to the filing of EPA forms with CBP, contact William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade Policy and Programs, Office of Trade, at *William.R.Scopa@cbp.dhs.gov.* For EPA policy questions, contact Harlan Weir, at *Weir.Harlan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rulemaking. Comments that will provide the most assistance to CBP will reference a specific portion of the proposed rulemaking, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments. CBP is particularly interested in comments on the following issues:

- Does collection of the names, phone number, and email address of the TSCA import certifier impact your business/industry? If so, how (to the extent possible, please quantify impacts)?
- Does the electronic submission of TSCA certifications to ACE affect your business/industry? If so, how (to the extent possible, please quantify impacts)?

Background

I. Authority

A. Toxic Substances Control Act (TSCA)

In 1976, Congress enacted the Toxic Substances Control Act (TSCA) in order to, among other things, protect human health and the environment against unreasonable risks resulting from manufacture, distribution in commerce, processing, use, or disposal of chemical substances or mixtures. (15 U.S.C. 2601 *et seq.*) The U.S. Environmental Protection Agency (EPA) is the agency primarily responsible for implementation of TSCA. Section 13 of TSCA (15 U.S.C. 2612) governs the entry of those chemical substances and mixtures, and articles containing such chemical substances or mixtures into the customs territory of the United States and authorizes the Secretary of the Treasury, authority subsequently delegated to the U.S. Customs and Border Protection (CBP), to refuse entry of any chemical substance, mixture, or article that: (1) Fails to comply with any rule in effect under TSCA; or (2) is offered for entry in violation of TSCA section 5 or 6 (15 U.S.C. 2604 or 2605) or Subchapter IV (15 U.S.C. 2681 *et seq.*), or in violation of a rule or order under those provisions or in violation of an order issued in a civil action brought under TSCA section 5 or 7 (15 U.S.C. 2604 or 2606) or Subchapter IV (15 U.S.C. 2681 *et seq.*). Section 13 also sets forth procedural requirements in connection with an entry refusal and authorizes CBP, after consultation with EPA, to issue rules for the administration of section 13.

B. Current Regulations

The CBP regulations implementing section 13 are contained in §§ 12.118 through 12.127 and § 127.28 of title 19 of the Code of Federal Regulations (19 CFR 12.118 through 12.127 and 127.28).

Section 12.118 describes the statutory authority for the promulgation of regulations under the Toxic Substances

Control Act (15 U.S.C. 2601 *et seq.*), by the Secretary of Treasury in consultation with the Administrator of EPA.

Section 12.119 sets forth the scope of the regulations in §§ 12.120 through 12.127 stating that these provisions apply to the importation into the customs territory of the United States of chemical substances in bulk form and as part of mixtures under TSCA as well as articles containing a chemical substance or mixture if so required by the Administrator by specific rule under TSCA. Section 12.120 provides definitions for purposes of the TSCA regulations.

Under 19 CFR 12.121(a), when a TSCA chemical substance is imported in bulk form or as part of a mixture or a non-TSCA chemical is imported, an importer or the importer's customs broker must submit a signed certification stating either: (1) All chemical substances in the shipment comply with all applicable rules or orders under TSCA and that the importer is not offering a chemical substance for entry in violation of TSCA or any rule or order thereunder (a positive certification), or (2) all chemicals in the shipment are not subject to TSCA (a negative certification). Section 12.121(b) states that the provisions of paragraph (a) apply to a TSCA chemical substance or mixture as part of an article only when required by a rule or order under TSCA.

Under 19 CFR 12.121(a)(2)(i), the TSCA certification must be filed with the director of the port of entry before release of the shipment. The certification may appear as a typed or stamped statement either: (1) On the entry document or commercial invoice, or on a preprinted attachment to the entry document or commercial invoice, or (2) in the case of a release under a special permit for an immediate delivery under 19 CFR 142.21 or in the case of an entry under 19 CFR 142.3, on the commercial invoice or an attachment to the commercial invoice. Further, importers are allowed to use paper blanket certifications under 19 CFR 12.121(a)(2)(ii).

Section 12.125 establishes the procedures for the importer to provide notice of exportation whenever the EPA Administrator directs CBP to refuse entry under § 12.123. Under § 12.126, an importer who intends to abandon a shipment after receiving a notice of refusal of entry is directed to provide written notice of intent to abandon to CBP.

Section 12.127 provides that a shipment detained under § 12.122 shall be considered to be unclaimed or abandoned and shall be turned over to the EPA Administrator for storage or disposition when the importer has not brought the shipment into compliance or exported the shipment within the required time limits.

Section 127.28(i) sets forth the procedures for the disposition of special classes of merchandise that are found to be inadmissible into the United States by the EPA for not complying with the terms of TSCA.

II. Proposed Amendments

A. Description, Scope, and Definitions

CBP is proposing changes to §§ 12.118 through 12.121 to clarify the description, scope, and definitions of the requirements for the importation of chemical substances, mixtures and articles containing a chemical substance or mixture, as well as the requirements associated with non-TSCA chemicals. In § 12.118 we propose to revise the description of the Toxic Substances Control Act for clarity. In addition, CBP proposes to clarify the scope of the regulations by revising certain definitions. The regulations currently include requirements for "chemical substances," regardless of whether the substance is subject to TSCA. The definition of "chemical substance" in section 3(2) of the TSCA excludes certain substances, *e.g.*, pesticides. Although these chemicals are excluded from the definition of "chemical substance" under TSCA, importers are still required to file a negative certification under § 12.121(a), to certify that the shipment is not subject to TSCA. Because using the term "chemical substance" to refer to chemicals that are not subject to TSCA may be confusing, this document proposes to clarify the scope of the regulations in § 12.119 and the reporting requirements in § 12.121 by including language that makes clear that the regulation applies to the importation of chemicals regardless of whether they are "chemical substances" subject to TSCA. In proposed § 12.120, definitions are revised to ensure consistency between the terms used in the definitions and the terms used elsewhere in these regulations.

The EPA's regulations implementing section 13 of TSCA, codified at 40 CFR 707.20(b)(2)(ii), require the submission of a TSCA negative certification when a chemical import is not clearly identified as a pesticide or other chemical not subject to TSCA. Current CBP regulations at 19 CFR part 12 do not include an exemption from the negative certification requirement for chemicals that are clearly identified as a pesticide or other chemical not subject to TSCA, and CBP is not proposing to codify such an exemption. CBP requests comments, however, on whether such an exemption is appropriate. The requirements for TSCA certification are set forth in CBP's regulations in § 12.121, and based on the outcome of this rulemaking, CBP anticipates that if necessary EPA would adjust the imports policy statement at 40 CFR part 707 accordingly.

This document also proposes to replace the existing definition of the term "chemical substance in bulk form" in § 12.120(b) with a definition of "TSCA chemical substance in bulk form", and add new definitions for the terms "TSCA chemical substance as part of a mixture" in § 12.120(c) and "non-TSCA chemical" in § 12.120(d). These definitions are being revised and added to clarify that the certification obligations apply to both chemical substances and mixtures that are subject to TSCA, which require a positive certification, as well as those chemicals and mixtures that are not subject to TSCA, which require a negative certification and to ensure that terms used in the regulatory text are defined when necessary. "Mixture" is a statutory term in TSCA that does not apply to non-TSCA chemicals. Non-TSCA chemicals require a negative certification whether imported as a single non-TSCA chemical or mixed with other non-TSCA chemicals. In addition, in §§ 12.122(a) and (b), 12.123(b), 12.124(a), 12.125(b), and 127.28, this document proposes to revise references to "chemical substances, mixtures, or articles" to clarify that these regulations apply to TSCA chemical substances, mixtures, or articles as well as non-TSCA chemicals. This document also proposes to add a definition of the term "Administrator" to mean the Administrator of the EPA, and "covered commodity" to properly describe a commodity that is subject to actions under §§ 12.122 through 12.127 and § 127.28. In § 12.120, this document proposes to define the term "covered commodity" to include any merchandise that is an article, a TSCA chemical substance in bulk form, a non-TSCA chemical (as those terms are defined in § 12.120(a), (b), or (d)), or that is a mixture as defined in TSCA.

This document proposes to revise § 12.119 to ensure that the scope of the regulation accurately reflects the requirements with regard to certain TSCA chemical substances and non-TSCA chemicals. The scope as written in the existing regulation does not accurately describe all items addressed in the regulation. This proposed rule also clarifies the limitation regarding articles (*i.e.*, "if so required by the Administrator by specific rule under TSCA"), applies to the requirement for a certification in § 12.121, but does not apply to actions taken under § 12.122 and following sections. This document proposes, in §§ 12.122, 12.124, 12.125, and 127.28, to use the term "covered commodity" as defined in a proposed definition in § 12.120, to refer to any commodity that may be subject to those sections. In § 12.124, this proposed rule proposes to change the name of the agency from "Customs Service" to "CBP".

B. Electronic Option Allowed for Import Certification

On February 10, 2016, CBP published a notice in the **Federal Register** (81 FR 7133) announcing that CBP was modifying the National Customs Automation Program (NCAP) test concerning electronic filings of data to ACE, known as the Partner Government Agency (PGA) Message Set test to allow for the transmission of TSCA certification data. Prior to the conclusion of that test, CBP will evaluate the test to assess the reliability and utility of the electronic TSCA certification process. If CBP determines that the TSCA NCAP test is successful, CBP will conclude that test in conjunction with the publication of the final rule implementing the changes proposed in this notice.

The proposed regulations provide an electronic option for filing TSCA certifications, consistent with Executive Order (EO) 13659, *Streamlining the Export/Import Process for America's Businesses,* which seeks to reduce unnecessary procedural requirements relating to, among other things, importing into the United States, while continuing to protect our national security, public health and safety, the environment, and natural resources. *See* 79 FR 10657 (February 25, 2014). The proposed regulations are also consistent with the Security and Accountability for Every Port Act of 2006 ("SAFE Port Act," 19 U.S.C. 1411(d)) which mandates that all federal agencies that require documentation for clearing or licensing the importation of cargo participate in the International Trade Data System (ITDS) by using a CBP-authorized Electronic Data Interchange (EDI) system as a single portal for the collection and distribution of standard electronic import and export data required by all participating Federal agencies.

In order to submit an electronic positive or negative TSCA certification, importers or their agents would be required to submit their entry filings to ACE or any other CBP-authorized electronic data interchange (EDI) system. This document also proposes to require in § 12.121(a)(3) the submission of additional information relating to the certifying individual, including name, phone number, and email address for TSCA certifications submitted either in writing or electronically. The collection of contact information for the certifying individual will facilitate the resolution of issues related to particular shipments. This document also changes in § 12.121(c) the reference to paragraph (a)(1) to paragraph (a) which concerns TSCA certifications.

C. Blanket Certifications

CBP is proposing to eliminate the blanket certification process. The existing paper-based blanket certification process set forth in current § 12.121(a)(2)(ii) has limited utility because each blanket certification is only valid at one port of entry and is only valid for one year. In addition, the current blanket certification process is more burdensome than the current entry-specific certification process because it requires filers to report a statement referring to the blanket certification and incorporating it by reference for each entry, as well as four data elements on the blanket certification itself, including product name, Harmonized Tariff Schedule of the United States (HTSUS) subheading number, and the name and address of the foreign supplier. Because the electronic TSCA certification process will require only a certification code, along with the name and contact information of the TSCA certifier, and because the paper-based blanket certification has limited application, we believe the elimination of the blanket certification process will reduce the reporting burden for importers.

D. Notice of Exportation and Abandonment

In addition, this document proposes to amend §§ 12.125 and 12.126 to allow importers to provide electronic notice of exportation and abandonment as an alternative to the paper-based written notice process allowed under the existing regulations.

The automation of these processes will modernize the way that CBP and EPA interact with importers of chemicals, and ensure effective application of regulatory controls. CBP estimates approximately 2.5 million TSCA positive certifications and 230,000 TSCA negative certifications are received annually. The electronic collection of TSCA certifications for processing in ACE will improve information access, data integration with CBP entry information, and the data quality of TSCA certifications. As a result, CBP expects improved communication among EPA, CBP, and importers.

E. Plain Language Revisions

CBP is proposing minor changes to §§ 12.118 through 12.127 by removing the word "shall" and revising the sentence grammar to simplify the language. The use of "shall" is imprecise and outdated. Plain language guidance recommends to replace "shall" with the word "must," "will," or another word that more appropriately conveys the intended meaning. This is part of the U.S. government efforts to update regulatory text per plain language guidance.

III. Estimated Costs and Benefits of This Rule

A. Costs

The costs for the regulated community to implement TSCA certification via this proposed rule would be minimal. CBP and EPA estimate that providing the name, phone number, and email address of the import certifier would result in a net increase in information collection burden of three minutes for each of the estimated 2.5 million TSCA positive certifications and 230,000 TSCA negative certifications (increased cost of about $3 per certification), yielding an annual trade increased cost of $8.41 million.

B. Benefits

The use of the ACE system is intended to streamline the cargo entry and review process. The benefits to industry for implementing electronic reporting for TSCA import certification specifically would be limited in this rule compared to the overall benefits of utilizing ACE. With migration to ACE, the access plus integration with CBP entry data will facilitate interagency communications, as well as assist CBP and EPA in contacting brokers and importers (with the assistance of the new data elements for certifier contact information). Additionally, EPA staff will have improved capability to verify information for use in developing targeting strategies, and other mission critical information gathering tasks.

IV. Statutory and Executive Order Reviews

A. Executive Orders 12866 and 13563

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a "significant regulatory action," under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this regulation. An Economic Analysis for this action, which is contained in a document entitled "Economic Analysis for Custom and Border Protection (CBP) Proposed Rule on TSCA Import Certifications in ACE/ITDS," is available in the docket for this rulemaking and is summarized in the previous section of this document.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et. seq.*) requires federal agencies to assess the effects of regulations on small entities, including businesses, nonprofit organizations, and governments, and—in some instances—to examine alternatives to the regulations that may reduce adverse economic effects on significantly impacted small entities. Section 604 of the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires an agency to perform a regulatory flexibility analysis for a rule unless the agency certifies under section 605(b) that the regulatory action would not have a significant (economic) impact on a substantial number of small entities (SISNOSE). The RFA does not specifically define "a significant economic impact on a substantial number" of small entities.

A small entity analysis (SEA) was conducted and summarized herein. The SEA consists of: Two quantitative analyses of impacts of the proposed rule on small entities for TSCA positive certifications, a qualitative discussion of impacts for TSCA negative certifications, and an integrative analysis of the combined universe of TSCA positive and TSCA negative certifications (all entities affected by the rule). These analyses provide information on the magnitude and extent of cost impacts for the purpose of supporting a CBP certification that the proposed rule would not result in significant (economic) impact on a substantial number of small entities (SISNOSE). For additional details, see the Economic Analysis for this action, which is contained in a document entitled "Economic Analysis for Customs and Border Protection (CBP) Proposed Rule on TSCA Import Certifications in ACE/ITDS," and is available in the docket for this rulemaking.

For TSCA positive certifications, the first quantitative analysis is a screening analysis of cost impacts to the smallest entities associated with TSCA positive certifications; and the second, a more detailed distributional analysis of impacts associated with TSCA positive certifications. These analyses use cost impact percentages to measure potential impacts on small parent entities affected by the proposed rule. The cost impact percentage is defined as annualized compliance costs resulting from the TSCA positive certification portion of the proposed rule as a percentage of annual revenues or sales, a commonly available and objective measure of a company's business volume. As is the expected case for this rule, when increases in regulatory costs are minimal, they represent a small fraction of a typical entity's revenue, and therefore the impacts of the regulation are minimal.

The first quantitative analysis for TSCA positive certifications is a screening analysis that provides a concise estimate of small entity impacts under the proposed rule by examining whether an "average small parent entity" incurs significant economic impact. The results of this analysis are presented in Table 1. The second quantitative analysis is a detailed distributional analysis that provides an estimate of small entity impacts under the assumption that affected entities have the same size characteristics as the overall industry sector. The results of this analysis are presented in Table 2.

TABLE 1—TSCA POSITIVE CERTIFICATION SUMMARY OF SCREENING ANALYSIS RESULTS

NAICS	NAICS Code description	Parent entities with 0 to 4 employees			All small parent entities		
		Average revenue	1% impact	3% impact	Average revenue	1% impact	3% impact
325[a]	Chemical Manufacturing	$1,457,186	No	No	$80,841,890	No	No
324[b]	Petroleum and Coal Products Manufacturing.	2,120,398	No	No	556,652,918	No	No

[a] For NAICS 325, the analysis of parent entities with 0 to 4 employees include 3,261 businesses while the analysis of all parent entities includes 9,772 businesses.

[b] For NAICS 324, the analysis of parent entities with 0 to 4 employees include 391 businesses while the analysis of all parent entities includes 1,189 businesses.

TABLE 2—TSCA POSITIVE CERTIFICATION SUMMARY OF DETAILED DISTRIBUTIONAL ANALYSIS

NAICS	NAICS Code description	Parent entities	Small parent entities	Number and percent of small parent entities incurring impact of . . .			Minimum impact[a] (%)	Mean impact[b] (%)	Maximum impact[c] (%)
				<1%	1–3%	>3%			
325	Chemical Manufacturing.	11,175	11,175	11,175 *(100%)*	0 *(0%)*	0 *(0%)*	<0.001	0.015	0.032
324	Petroleum and Coal Products Manufacturing.	3,657	3,657	3,657 *(100%)*	0 *(0%)*	0 *(0%)*	<0.001	0.009	0.022

[a] Of the 11,175 small entities in NAICS 325, the minimum impact experienced by any entity was <0.001%. Of the 3.657 small entities in NAICS 324, the minimum impact experienced by any entity was <0.001%.

[b] Of the 11,175 small entities in NAICS 325, the mean impact experienced by any entity was 0.015%. Of the 3.657 small entities in NAICS 324, the mean impact experienced by any entity was 0.009%.

[c] Of the 11,175 small entities in NAICS 325, the maximum impact experienced by any entity was 0.032%. Of the 3.657 small entities in NAICS 324, the maximum impact experienced by any entity was 0.022%.

The small entity screening analysis for TSCA positive certifications demonstrates that no small entities are expected to incur impacts of one percent or greater. The detailed distributional analysis for TSCA positive certifications shows that while a large number of small entities in certain sectors may be affected by the proposed rule, all of these small entities are expected to incur impacts of considerably less than one percent.

For TSCA negative certifications, because the unit incremental steady state burden associated with positive and negative certification are virtually the same (2.93 versus 2.98 minutes, respectively), the small entity impacts associated with negative certifications are similar to the small entity impacts associated with positive certifications, and are considerably less than one percent.

Integrating the above information for all firms submitting TSCA positive certifications and/or TSCA negative certifications requires consideration of the degree to which the firms submitting each type of certification overlap. Since this detailed information is not readily available, an assessment is made via review of lower-bound and upper-bound impact scenarios. At the lower bound with an assumption of no overlap, firms submitting TSCA positive and TSCA negative certifications are completely isolated and separate. Each firm incurs about three minutes additional burden per certification with associated impacts of less than one percent, yielding overall impacts of less than one percent for all firms. In the upper-bound scenario, with an assumption that all firms overlap, firms submit both TSCA positive and negative certifications at the same transaction rates per firm for each type of certification. All firms incur twice the burden due to managing twice as many certifications (*i.e.,* in comparison to three minutes per certification, the "double duty" requires six minutes for one positive certification plus one negative certification). Nonetheless, the associated overall impacts are still less than one percent for all firms.

Per conventional practices including EPA guidance, even if a substantial number of entities are affected by a proposed rule, as long as the impact to these entities is very low, the rule can be determined to not result in a significant impact on a substantial number of small entities. Based on the evidence of the analyses summarized above, CBP certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities (no SISNOSE).

C. Paperwork Reduction Act

As this proposed rule does not establish a new collection of information, as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the provisions of the Paperwork Reduction Act are inapplicable.

D. Unfunded Mandates Reform Act (UMRA)

This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Signing Authority

This proposed regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the authority of the Secretary of the Treasury (or that of his or her delegate) to approve regulations pertaining to certain customs revenue functions.

List of Subjects

19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Reporting and recordkeeping requirements.

19 CFR Part 127

Customs duties and inspection, Exports, Freight, Reporting and recordkeeping requirements.

Proposed Amendments to the CBP Regulations

For the reasons set forth in the preamble, 19 CFR parts 12 and 127 are proposed to be amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general and specific authority citations for part 12 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.118 through 12.127 also issued under 15 U.S.C. 2601 *et seq.*

* * * * *

■ 2. Revise § 12.118 to read as follows:

§ 12.118 Toxic Substances Control Act.

The Toxic Substances Control Act ("TSCA") (15 U.S.C. 2601 *et seq.*) governs the importation into the customs territory of the United States of a chemical substance in bulk form or as part of a mixture, and articles containing a chemical substance or mixture. Such importations are also governed by these regulations which are issued under the authority of section 13(b) of TSCA (15 U.S.C. 2612(b)).

■ 3. Revise § 12.119 to read as follows:

§ 12.119 Scope.

Sections 12.120 through 12.127 apply to the importation into the customs territory of the United States of:

(a) Chemical substances in bulk form and as part of a mixture under TSCA;

(b) Chemicals not subject to TSCA; and

(c) Articles containing a chemical substance or mixture.

■ 4. In § 12.120, revise paragraph (b) and add paragraphs (c), (d), (e), and (f) to read as follows:

§ 12.120 Definitions.

* * * * *

(b) *TSCA chemical substance in bulk form* means a chemical substance as set forth in section 3(2) of TSCA, (15 U.S.C. 2602(2)) (other than as part of an article) in containers used for purposes of transportation or containment, provided that the chemical substance is intended to be removed from the container and has an end use or commercial purpose separate from the container.

(c) *TSCA chemical substance as part of a mixture* means a chemical substance as set forth in section 3(2) of TSCA, (15 U.S.C. 2602(2)) that is part of a combination of two or more chemical substances as set forth in section 3(8) of TSCA.

(d) *Non-TSCA chemical* means any chemical that is excluded from the definition of TSCA chemical substance by section 3(2)(B)(ii) through (vi) of TSCA, (15 U.S.C. 2602(2)(B)(ii) through (vi)) (other than as part of a mixture), regardless of form.

(e) *Covered commodity* means merchandise that meets the terms of one of the definitions specified in paragraphs (a), (b), or (d) of this section or that is a mixture as defined in TSCA.

(f) *Administrator* means the Administrator of the Environmental Protection Agency (EPA).

■ 5. In § 12.121, revise paragraphs (a), (b), and (c) to read as follows:

§ 12.121 Reporting requirements.

(a) *Certification required.* (1) The importer of a TSCA chemical substance in bulk form or as part of a mixture, or the authorized agent of such an importer, must certify in writing or electronically that the chemical shipment complies with all applicable rules and orders under TSCA by filing with CBP the following statement:

> I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order thereunder.

(2) The importer of any non-TSCA chemical, or the authorized agent of such an importer, must certify in writing or electronically that the chemical shipment is not subject to TSCA by filing with CBP the following statement:

> I certify that all chemicals in this shipment are not subject to TSCA.

(3) *Filing of certification.* (i) The appropriate certification required under paragraph (a) of this section must be filed with the director of the port of entry in writing or electronically to the Automated Commercial Environment (ACE) system or any other CBP-authorized EDI system prior to release of the shipment. For each entry subject to certification under paragraph (a) of this section, the importer or their agent must identify the certifier by name, phone number, and email address.

(ii) Written certifications must appear as a typed or stamped statement:

(A) On an appropriate entry document or commercial invoice or on an attachment to that entry document or invoice; or

(B) In the event of release under a special permit for an immediate delivery as provided for in § 142.21 of this chapter or in the case of an entry as provided for in § 142.3 of this chapter, on the commercial invoice or on an attachment to that invoice.

(b) *TSCA chemical substances or mixtures as parts of articles.* An importer of a TSCA chemical substance or mixture as part of an article must comply with the certification requirements set forth in paragraph (a) of this section only if required to do so by a rule or order issued under TSCA.

(c) *Facsimile signatures.* The certification statements required under paragraph (a) of this section may be signed by means of an authorized facsimile signature.

§ 12.122 [Amended]

■ 6. Amend § 12.122:

■ a. By removing the word "shall" each place it appears and adding in its place the word "will"; and

■ b. In paragraphs (a) and (b) by removing the words "chemical substances, mixtures, or articles" and adding in their place the words "covered commodity".

§ 12.122 [Amended]

■ 7. Amend § 12.123:

■ a. By removing the word "shall" each place it appears and adding in its place the word "will"; and

■ b. In paragraph (b), third sentence, by removing the words "chemical substance, mixture, or article" and adding in their place the words "a covered commodity".

■ 8. Amend § 12.124 as follows:

■ a. In paragraph (a) by removing the words "chemical substances, mixtures, or articles" and adding in their place the words "a covered commodity";

■ b. In paragraph (a) by removing the word "shall" and adding in its place the word "must";

■ c. In paragraph (b) by removing the words "Customs Service" and adding in its place "CBP".

■ 9. Amend § 12.125:

■ a. By revising the introductory text;

■ b. In paragraph (b) by removing the words "chemical substances, mixtures, or articles" and adding in their place the words "covered commodity".

The revision reads as follows:

§ 12.125 Notice of exportation.

Whenever the Administrator directs the port director to refuse entry under § 12.123 and the importer exports the non-complying shipment within the 30 day period of notice of refusal of entry or within 90 days of demand for redelivery, the importer must submit notice of the exportation either in writing to the port director or electronically to CBP through ACE or any other CBP-authorized EDI system. The importer must include the following information in the notice of exportation:

* * * * *

■ 10. Revise § 12.126 to read as follows:

§ 12.126 Notice of abandonment.

If the importer intends to abandon the shipment after receiving notice of refusal of entry, the importer must present a notice of intent to abandon in writing to the port director or electronically to CBP through ACE or any other CBP-authorized EDI system. Notification under this section is a waiver of any right to export the merchandise. The importer will remain liable for any expense incurred in the storage and/or disposal of abandoned merchandise.

■ 11. Amend § 12.127 to read as follows:

§ 12.127 Decision to store or dispose.

A shipment detained under § 12.122 will be considered to be unclaimed or abandoned and will be turned over to the Administrator for storage or disposition as provided for in § 127.28(i) of this chapter if the importer has not brought the shipment into compliance with TSCA and has not exported the shipment within time limitations or extensions specified in § 12.124. The importer will remain liable for any expenses in the storage and/or disposal of abandoned merchandise.

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

■ 12. The general and specific authority citations for part 127 continue to read as follows:

Authority: 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1493, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 5753.

* * * * *

Section 127.28 also issued under 15 U.S.C. 2612, 26 U.S.C. 5688;

* * * * *

■ 13. Amend § 127.28, paragraph (i) to read as follows:

§ 127.28 Special merchandise.

* * * * *

(i) *Goods subject to TSCA Requirements.* Goods subject to TSCA requirements, *i.e.,* covered commodities as defined in § 12.120 of this chapter, will be inspected by a representative of the Environmental Protection Agency to ascertain whether they comply with Toxic Substances Control Act and the regulations and orders issued thereunder. If found not to comply with these requirements that good must be exported or otherwise disposed of immediately in accordance with the provisions of §§ 12.125 through 12.127 of this chapter.

R. Gil Kerlikowske,

Commissioner, U.S. Customs and Border Protection.

Approved: August 23, 2016.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2016–20546 Filed 8–26–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0749]

RIN 1625–AA00

Safety Zone; Pago Pago Harbor, American Samoa

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone during the 2016 Fautasi Ocean Challenge canoe race in Pago Pago Harbor, American Samoa, on November 11 and 25, 2016. This action is necessary to safeguard the participants and spectators, including all crews, vessels, and persons on the water in Pago Pago Harbor during the event. This regulation will functionally close the port to vessel traffic during the race, but will not require the evacuation of any vessels from the harbor. Entry into, transiting, or anchoring in the harbor would be prohibited to all vessels not registered with the sponsor as participants or not part of the race patrol, unless specifically authorized by the Captain of the Port (COTP) Honolulu or a designated representative. Vessels who are already moored or anchored in the harbor seeking permission to remain there shall request permission from COTP unless deemed a spectator vessel that is moored to a waterfront facility within the safety zone. We invite your comments on this notice of proposed rulemaking (NPRM).

DATES: Comments and related material must be received by the Coast Guard on or before September 28, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0749 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Nicolas Jarboe, Waterways Management Division, U.S. Coast Guard Sector Honolulu; telephone (808) 541–4359, email *nicolas.a.jarboe@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port, Honolulu
CFR Code of Federal Regulations
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On June 1, 2016, the Coast Guard received formal notification from the American Samoa Government that the 2016 Fautasi Ocean Challenge is scheduled to occur in Pago Pago Harbor on November 11 and 25, 2016. This annual event has strengthened local tradition for over a century. The event will consist of a series of races entirely within Pago Pago Harbor between longboats with paddling crews of 32–48 persons each. It is anticipated that a large number of spectator pleasure craft will be drawn to the event. Spectator vessels and commercial vessel traffic will pose a significant safety hazard to the longboats, longboat crew members, and other persons and vessels involved with the event.

The purpose of this proposed rulemaking is to minimize vessel traffic in Pago Pago Harbor before, during, and after the scheduled event to safeguard persons and vessels during the longboat races. The Captain of the Port, Honolulu (COTP), proposes to establish a temporary safety zone for Pago Pago Harbor. A safety zone is a water area, shore area, or water and shore area, for safety or environmental purposes, of which access is limited to authorized persons, vehicles, or vessels. The statutory basis for this rulemaking is 33 U.S.C. 1231, which gives the Coast Guard, under a delegation from the Secretary of the Department of Homeland Security, regulatory authority to enforce the Ports and Waterways Safety Act.

III. Discussion of Proposed Rule

This rule will create a temporary safety zone in Pago Pago Harbor. The safety zone will close the harbor to all vessels not authorized by the COTP for entry into, transiting, or anchoring within the port for the duration of the event. The COTP will authorize registered participants, support vessels, and enforcement vessels to enter and remain in the zone. No other vessels would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The harbor will remain closed until the Coast Guard issues an "All Clear" after races have concluded and the harbor is deemed safe for normal operations. This rule will not require any vessel already moored to evacuate the port, provided that they are moored in such a way that they do not interfere with the progress of the event. The proposed regulatory text appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. This determination is based on the size, location, duration, and time-of-day of the safety zone. Accordingly, this NPRM has not been reviewed by the Office of Management and Budget.

Under this NPRM, the Coast Guard would issue a Broadcast Notice to Mariners with information pertaining to the safety zone via VHF–FM marine channel 16.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Some owners or operators of vessels intending to transit the safety zone may be small entities and may not be authorized to do so. However, given the short duration of this proposed temporary rule, this would not create a significant economic impact on a substantial number of these entities. Moreover, the rule would allow all vessels to seek permission from the Coast Guard to enter the safety zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

If you believe this proposed rule would have substantial direct effects on federalism or tribal governments, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a temporary and limited safety zone in Pago Pago Harbor. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.1D. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov*, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS.

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T14–0749 to read as follows:

§ 165.T14–0749 Safety Zone; Pago Pago Harbor, America Samoa.

(a) *Location.* The following area is a safety zone: Breakers Point (eastern edge of Pago Pago Harbor entrance) thence southeast to 14°18′47″ S., 170°38′54.5″ W., thence southwest to 14°19′03″ S., 170°39′14″ W., thence northwest to Tulutulu Point and then following the coastline encompassing Pago Pago Harbor. This regulated area extends from the surface of the water to the ocean floor.

(b) *Enforcement period.* This rule will be enforced from 10:00 a.m. to 4:00 p.m. on November 11, 2016 and from 10:00 a.m. to 4:00 p.m. on November 25, 2016.

(c) *Regulations.*

(1) All persons and vessels not registered with the sponsor as participants or support/enforcement vessels are considered spectators. The "support/enforcement vessels" consist

of any territory, or local law enforcement and sponsor provided vessels assigned or approved by the Captain of the Port Honolulu to patrol the safety zone.

(2) No spectator shall anchor, block, loiter or impede the transit of participants or support/enforcement vessels in the safety zone during the enforcement dates and times, unless cleared for entry by or through a support/enforcement vessel.

(3) Spectator vessels may be moored to a waterfront facility within the safety zone in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the safety zone and remain moored through the duration of the event.

(d) *Informational Broadcasts.* The safety zones shall be effective between 10:00 a.m. and 4:00 p.m. (SST) on November 11 and 25, 2016. If circumstances render enforcement of the safety zone unnecessary for the entirety of these periods, the Captain of the Port or his designated representative will inform the public through broadcast notices to mariners that the safety zone is no longer being enforced. The harbor will remain closed until the Coast Guard issues an "All Clear" for the harbor after the race has concluded and the harbor is deemed safe for normal operations.

(e) *Penalties.* Vessels or persons violating this rule may be subject to the penalties set forth in 33 U.S.C. 1232.

Dated: August 23, 2016.

M.C. Long,

Captain, U.S. Coast Guard, Captain of the Port Honolulu.

[FR Doc. 2016–20591 Filed 8–26–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2013–0260; A–1–FRL–9951–45–Region 1]

Air Plan Approval; New Hampshire; Approval of Single Source Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. The revisions consist of single source orders that establish reasonably available control technology for sources of volatile organic compounds.

DATES: Written comments must be received on or before September 28, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2013–0260 at *http://www.regulations.gov,* or via email to Anne Arnold at: *arnold.anne@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Environmental Engineer, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05–02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109–3912; (617) 918–1046; *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Rules and Regulations section of this **Federal Register**, EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views these as noncontroversial submittals and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules and Regulations section of this **Federal Register**.

Dated: August 15, 2016.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2016–20539 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0032; FRL–9950–22]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before September 28, 2016.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://*

www.epa.gov/dockets/contacts.html. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@* Goodis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@* address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

New Tolerances

1. *PP* 5E8432. (EPA–HQ–OPP–2016–0299). Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268, requests to establish an import tolerance in 40 CFR part 180 for residues of the cloquintocet-mexyl (acetic acid [(5-chloro-8-quniolinyl)oxyl]-1-methylhexyl ester) (CAS Reg. No. 99607–70–2) and its acid metabolite (5-chloro-8-quinlinoxyacetic acid) for use as an inert ingredient (safener) in combination with the herbicide pyroxsulam in or on teff, forage at 0.2 parts per million (ppm); teff, grain at 0.1 ppm; teff hay at 0.5 ppm; teff straw at 0.1 ppm. The High Performance Liquid Chromatography with Ultraviolet Detection (HPLC–UV) method REM 138.01 is used to measure and evaluate residues of the cloquintocet-mexyl (parent) and the HPLC–UV Method RED 138.10 allows determination of its acid metabolite (also known as CGA–153433) for the proposed uses. *Contact:* RD.

2. *PP* 5E8433. (EPA–HQ–OPP–2016–0143). Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300, requests to establish a tolerance in 40 CFR part 180.654 for residues of the fungicide, isopyrazam in or on tomato at 0.5 parts per million (ppm), pepper, bell at 0.6 ppm, and cucurbit crop subgroup 9A at 0.3 ppm. The GRM006.01B validation method is used to measure and evaluate the chemical isopyrazam, analyzed as the isomers SYN534968 and SYN534969. *Contact:* RD.

3. *PP* 5E8366. (EPA–HQ–OPP–2016–0380). BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709–3528, requests to establish tolerances in 40 CFR part 180 for residues of the fungicide, fluxapyroxad in or on banana at 3.0 parts per million (ppm); coffee, green bean at 0.2 ppm; mango at 0.7 ppm; and papaya at 0.6 ppm. Independently validated methods have been used to measure and evaluate parent fluxapyroxad, BAS 700F plus metabolites M700F008, M700F048, and M700F002. *Contact:* RD.

4. *PP* 5F8381. (EPA–HQ–OPP–2015–0722). Bayer CropScience, P.O. Box

12014, 2 T.W., Alexander Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180.626 for residues of the fungicide, prothioconazole in or on cotton, gin by-products at 4.0 parts per million (ppm). The liquid chromatography/mass spectrometry (LC/MS/MS) is used to measure and evaluate the chemical prothioconazole. *Contact:* RD.

5. *PP* 6F8461. (EPA–HQ–OPP–2016–0255). Bayer CropScience, P.O. Box 12014, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide spirotetramat in or on sugar beet, root at 0.15 ppm; and sugar beet, molasses at 0.20 ppm. The high pressure liquid chromatography/triple stage quadrupole mass spectrometry (LC/MS/MS) analytical method is used to measure and evaluate the chemical spirotetramat. *Contact:* RD.

Amended Tolerances

1. *PP* 5F8400. (EPA–HQ–OPP–2015–0695). Isagro S.P.A. (d/b/a Isagro USA, Inc.), 430 Davis Drive, Suite 240, Morrisville, NC 27560, requests to amend the tolerances in 40 CFR 180.557 for residues of the fungicide tetraconazole in or on beet sugar, dried pulp at 0.20 parts per million (ppm), beet sugar, molasses at 0.25 ppm, and beet sugar, root at 0.15 ppm. The capillary gas chromatography with electron capture detector (GC/ECD)) as well as a QuEChERS multi-residue method (LC/MS–MS detection) is used to measure and evaluate the chemical tetraconazole. *Contact:* RD.

2. *PP* 6F8465. (EPA–HQ–OPP–2016–0307). Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808, requests to amend the tolerances in 40 CFR 180.566 for residues of the insecticide fenpyroximate in or on fruit, citrus, Group 10–10 at 1.0 parts per million (ppm), citrus dried pulp at 4.0 ppm, and citrus oil at 14 ppm. The high performance liquid chromatography using tandem mass spectrometric detection (LC/MS/MS) is used to measure and evaluate the chemical fenpyroximate and the M–1 Metabolite. *Contact:* RD.

New Tolerance Exemptions

1. *PP* 6F8444. (EPA–HQ–OPP–2016–0348). Marrone Bio Innovations, 1540 Drew Ave., Davis, CA 95618, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the bactericide and fungicide *Bacillus amyloliquefaciens* strain F727 in or on all food commodities. The petitioner believes no analytical method is needed because when used as proposed, *Bacillus amyloliquefaciens* strain F727 would not result in residues that are of toxicological concern. *Contact:* BPPD.

2. *PP* 6F8459. (EPA–HQ–OPP–2016–0259). Spring Trading Co., 203 Dogwood Trl., Magnolia, TX 77354 (on behalf of CH Biotech R&D Co. Ltd., No. 121 Xian An Rd., Xianxi Township, Changhua County 50741 Taiwan R.O.C.), requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the plant regulator 1-Triacontanol in or on raw agricultural commodity growing crops on in products to treat animals. The petitioner believes no analytical method is needed because the 10X standard safety factor is unnecessary for 1-Triacontanol since it is a compound found in plant cuticle waxes and beeswax. *Contact:* BPPD.

3. *PP* IN–10851. (EPA–HQ–OPP–2016–0378). Technology Sciences Group, 1150 18th Street, Suite 1000, Washington, DC 20036, on behalf of Jeneil Biosurfactant Company, 400 N. Dekora Woods Blvd., Saukville, WI 53080, requests to establish an exemption from the requirement of a tolerance for residues of isoamyl acetate (CAS Reg. No. 123–92–2) when used as an inert ingredient (solvent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910. The petitioner believes no analytical method is needed because the request is for an exemption from the requirements of a pesticide tolerance. *Contact:* RD.

Authority: 21 U.S.C. 346*a*.

Dated: August 16, 2016.

Michael Goodis,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2016–20653 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 160620545–6545–01]

RIN 0648–XE696

Atlantic Highly Migratory Species; 2017 Atlantic Shark Commercial Fishing Season

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would establish quotas, opening dates, and retention limits for the 2017 fishing season for the Atlantic commercial shark fisheries. Quotas would be adjusted as required or allowable based on any over- and/or underharvests experienced during 2016 and previous fishing seasons. In addition, NMFS proposes season opening dates and commercial retention limits based on adaptive management measures to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas. The proposed measures could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

DATES: Written comments must be received by September 28, 2016. An operator-assisted, public conference call and webinar will be held on September 22, 2016, from 2 p.m. to 4 p.m., EST.

ADDRESSES: The conference call information is phone number (888) 635–5002; participant passcode 5315520. NMFS will show a brief presentation via webinar followed by public comment. To join the webinar, go to: *https://noaaevents2.webex.com/noaaevents2/onstage/g.php?MTID=ea9172a6c1907b6efc462ce9117952e21,* event password: NOAA. Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. Participants that have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar.

You may submit comments on this document, identified by NOAA–NMFS–2016–0096, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0096,* click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Margo Schulze-Haugen, NMFS/SF1, 1315 East-West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Presentation materials and copies of the supporting documents are available from the HMS Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms/* or by contacting Guý DuBeck by phone at 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Guý DuBeck or Karyl Brewster-Geisz at 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic commercial shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. For the Atlantic commercial shark fisheries, the 2006 Consolidated HMS FMP and its amendments established, among other things, commercial shark retention limits, commercial quotas for species and management groups, accounting measures for under- and overharvests for the shark fisheries, and adaptive management measures such as flexible opening dates for the fishing season and inseason adjustments to shark trip limits, which provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

2017 Proposed Quotas

This proposed rule would adjust the quota levels for the different shark stocks and management groups for the 2017 Atlantic commercial shark fishing season based on over- and underharvests that occurred during 2016 and previous fishing seasons, consistent with existing regulations at 50 CFR 635.27(b). Over- and underharvests are accounted for in the same region, sub-region, and/or fishery in which they occurred the following year, except that large overharvests may be spread over a number of subsequent fishing years up to a maximum of 5 years. Shark stocks or management groups that contain one or more stocks that are overfished, have overfishing occurring, or have an unknown status, will not have underharvest carried over in the following year. Stocks that are not overfished and have no overfishing occurring may have any underharvest carried over in the following year, up to 50 percent of the base quota.

The quotas in this proposed rule are based on dealer reports received as of July 15, 2016. In the final rule, NMFS will adjust the quotas as needed based on dealer reports received as of a date in mid-October 2016. Thus, all of the 2017 proposed quotas for the respective stocks and management groups will be subject to further adjustment after NMFS considers the mid-October dealer reports. All dealer reports that are received after the October date will be used to adjust the 2018 quotas, as appropriate.

For the sandbar shark, aggregated LCS, hammerhead shark, non-blacknose SCS, blacknose shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups, the 2016 underharvests cannot be carried over to the 2017 fishing season because those stocks or management groups have been determined to be overfished, overfished with overfishing occurring, or have an unknown status. Thus, for all of these management groups, the 2017 proposed quotas would be equal to the applicable base quota minus any overharvests that occurred in 2016 and/or previous fishing seasons, as applicable.

Because the Gulf of Mexico blacktip shark management group and smoothhound shark management groups in the Gulf of Mexico and Atlantic regions have been determined not to be overfished and to have no overfishing occurring, available underharvest (up to 50 percent of the base quota) from the 2016 fishing season for these management groups may be applied to the respective 2017 quotas, and NMFS proposes to do so.

The proposed 2017 quotas by species and management group are summarized in Table 1; the description of the calculations for each stock and management group can be found below.

Table 1—2017 Proposed Quotas and Opening Dates for the Atlantic Shark Management Groups

[All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise. Table includes landings data as of July 15, 2016; final quotas are subject to change based on landings as of October 2016. 1 mt = 2,204.6 lb.]

Region or sub-region	Management group	2016 annual quota (A)	Preliminary 2016 landings [1] (B)	Adjustments [2] (C)	2017 base annual quota (D)	2017 proposed annual quota (D + C)	Season opening dates
Eastern Gulf of Mexico	Blacktip Sharks ..	28.9 mt dw (63,189 lb dw).	18.0 mt dw (39,584 lb dw).	10.9 mt dw (23,961 lb dw)[3].	25.1 mt dw (55,439 lb dw).	36.0 mt dw (79,400 lb dw).	January 1, 2017.
	Aggregated Large Coastal Sharks.	85.5 mt dw (188,593 lb dw).	42.9 mt dw (93,593 lb dw).	....	85.5 mt dw (188,593 lb dw).	85.5 mt dw (188,593 lb dw).	
	Hammerhead Sharks.	13.4 mt dw (29,421 lb dw).	6.7 mt dw (14,865 lb dw).	....	13.4 mt dw (29,421 lb dw).	13.4 mt dw (29,421 lb dw).	
Western Gulf of Mexico ...	Blacktip Sharks ..	266.5 mt dw (587,396 lb dw).	166.2 mt dw (366497 lb dw).	100.3 mt dw (220,542 lb dw)[3].	231.5 mt dw (510,261 lb dw).	331.8 mt dw (730,803 lb dw).	
	Aggregated Large Coastal Sharks.	72.0 mt dw (158,724 lb dw).	66.1 mt dw (145,624 lb dw).	....	72.0 mt dw (158,724 lb dw).	72.0 mt dw (158,724 lb dw).	
	Hammerhead Sharks.	11.9 mt dw (26,301 lb dw).	16.8 mt dw (37,063 lb dw).	....	11.9 mt dw (23,301 lb dw).	11.9 mt dw (23,301 lb dw).	
Gulf of Mexico	Non-Blacknose Small Coastal Sharks.	107.3 mt dw (236,603 lb dw).	41.0 mt dw (90,320 lb dw).	....	112.6 mt dw (248,215 lb dw).	112.6 mt dw (248,215 lb dw).	
	Smoothhound Sharks.	336.4 mt dw (741,627).	0 mt dw (0 lb dw)	168.2 mt dw (370,814 lb dw).	336.4 mt dw (741,627).	504.6 mt dw (1,112,441 lb dw).	

TABLE 1—2017 PROPOSED QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK MANAGEMENT GROUPS—Continued

[All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise. Table includes landings data as of July 15, 2016; final quotas are subject to change based on landings as of October 2016. 1 mt = 2,204.6 lb.]

Region or sub-region	Management group	2016 annual quota (A)	Preliminary 2016 landings[1] (B)	Adjustments[2] (C)	2017 base annual quota (D)	2017 proposed annual quota (D + C)	Season opening dates
Atlantic	Aggregated Large Coastal Sharks.	168.9 mt dw (372,552 lb dw).	42.0 mt dw (92,692 lb dw).	....	168.9 mt dw (372,552 lb dw).	168.9 mt dw (372,552 lb dw).	January 1, 2017.
	Hammerhead Sharks.	27.1 mt dw (59,736 lb dw).	9.6 mt dw (21,122 lb dw).	....	27.1 mt dw (59,736 lb dw).	27.1 mt dw (59,736 lb dw).	
	Non-Blacknose Small Coastal Sharks.	264.1 mt dw (582,333 lb dw).	40.4 mt dw (89,048 lb dw).	....	264.1 mt dw (582,333 lb dw).	264.1 mt dw (582,333 lb dw).	
	Blacknose Sharks (South of 34° N. lat. only).	15.7 mt dw (34,653 lb dw).	12.2 mt dw (26,916 lb dw).	....	17.2 mt dw (37,921 lb dw).	17.2 mt dw (37,921 lb dw)[4].	
	Smoothhound Sharks.	1,201.7 mt dw (2,647,725 lb dw).	183.2 mt dw (403,795 lb dw).	600.9 mt dw (1,323,862 lb dw).	1,201.7 mt dw (2,647,725 lb dw).	1,802.6 mt dw (3,971,587 lb dw).	
No regional quotas	Non-Sandbar LCS Research.	50.0 mt dw (110,230 lb dw).	7.2 mt dw (15,829 lb dw).	....	50.0 mt dw (110,230 lb dw).	50.0 mt dw (110,230 lb dw).	January 1, 2017.
	Sandbar Shark Research.	90.7 mt dw (199,943 lb dw).	34.9 mt dw (77,050 lb dw).	....	90.7 mt dw (199,943 lb dw).	90.7 mt dw (199,943 lb dw).	
	Blue Sharks	273.0 mt dw (601,856 lb dw).	0 mt dw (0 lb dw)	....	273.0 mt dw (601,856 lb dw).	273.0 mt dw (601,856 lb dw).	
	Porbeagle Sharks.	0 mt dw (0 lb dw)	0 mt dw (0 lb dw)	....	1.7 mt dw (3,748 lb dw).	1.7 mt dw (3,748 lb dw).	
	Pelagic Sharks Other Than Porbeagle or Blue.	488.0 mt dw (1,075,856 lb dw).	54.1 mt dw (119,336 lb dw).	....	488.0 mt dw (1,075,856 lb dw).	488.0 mt dw (1,075,856 lb dw).	

[1] Landings are from January 1, 2016, through July 15, 2016, and are subject to change.

[2] Underharvest adjustments can only be applied to stocks or management groups that are not overfished and have no overfishing occurring. Also, the underharvest adjustments cannot exceed 50 percent of the base quota.

[3] This adjustment accounts for underharvest in 2016. This proposed rule would increase the overall Gulf of Mexico blacktip shark quota by 111.2 mt dw (244,504 lb dw). Since any underharvest would be divided based on the sub-regional quota percentage split, the eastern Gulf of Mexico blacktip shark quota would be increased by 10.9 mt dw, or 9.8 percent of the underharvest, while the western Gulf of Mexico blacktip shark quota would be increased by 100.3 mt dw, or 90.2 percent of the underharvest.

[4] Based on overharvest in 2012 and 2015, NMFS had previously reduced the Atlantic blacknose shark base annual quota by 1.5 mt dw (3,268 lb dw) each year through 2018. However, in 2016, the Atlantic blacknose shark quota was underharvested by 3.5 mt dw (7,737 lb dw). NMFS is proposing to use the 2016 underharvest to cover the remaining overharvest amount of 3.0 mt dw (6,536 lb dw) and not to adjust the 2017 Atlantic blacknose shark base annual quota.

1. Proposed 2017 Quotas for the Blacktip Sharks in the Gulf of Mexico Region

The 2017 proposed commercial quota for blacktip sharks in the eastern Gulf of Mexico sub-region is 36.0 mt dw (79,400 lb dw) and the western Gulf of Mexico sub-region is 331.8 mt dw (730,803 lb dw). As of July 15, 2016, preliminary reported landings for blacktip sharks in the eastern Gulf of Mexico sub-region were at 62 percent (18.0 mt dw) of their 2016 quota levels (28.9 mt dw), while the blacktip sharks in the western Gulf of Mexico sub-region were also at 62 percent (166.2 mt dw) of their 2016 quota levels (266.5 mt dw). Reported landings have not exceeded the 2016 quota to date, and the western Gulf of Mexico sub-region fishery was closed on March 12, 2016 (81 FR 12602). Gulf of Mexico blacktip sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for blacktip sharks within the Gulf of Mexico region therefore could be applied to the 2017 quotas up to 50 percent of the base quota. Any underharvest would be split based on the sub-regional quota percentages of 9.8 percent for eastern Gulf of Mexico blacktip sharks and 90.2 percent for western Gulf of Mexico blacktip sharks (§ 635.27(b)(1)(ii)). To date, the overall Gulf of Mexico blacktip shark management group was underharvested by 111.2 mt dw (244,504 lb dw). Accordingly, NMFS proposes to increase the 2017 eastern Gulf of Mexico blacktip shark quota by 10.9 mt dw (111.2 mt dw underharvest in 2016 * 9.8 percent = 10.9 mt dw eastern sub-region underharvest) and increase the 2017 western Gulf of Mexico blacktip shark quota by 100.3 mt dw (111.2 mt dw underharvest in 2016 * 90.2 percent = 100.3 mt dw western sub-region underharvest). Thus, the proposed eastern sub-regional Gulf of Mexico blacktip shark commercial quota is 36.0 mt dw and the proposed western sub-regional Gulf of Mexico blacktip shark commercial quota is 331.8 mt dw.

2. Proposed 2017 Quotas for the Aggregated LCS in the Gulf of Mexico Region

The 2017 proposed commercial quota for aggregated LCS in the eastern Gulf of Mexico sub-region is 85.5 mt dw (188,593 lb dw) and the western Gulf of Mexico sub-region is 72.0 mt dw (158,724 lb dw). As of July 15, 2016, preliminary reported landings for aggregated LCS in the eastern Gulf of Mexico sub-region were at 50 percent (42.5 mt dw) of their 2016 quota levels (85.5 mt dw), while the aggregated LCS in the western Gulf of Mexico sub-region were at 92 percent (66.1 mt dw) of their 2016 quota levels (72.0 mt dw). Reported landings have not exceeded the 2016 quota to date, and the western aggregated LCS sub-region fishery was closed on March 12, 2016 (81 FR 12602). Given the unknown status of some of the shark species within the Gulf of Mexico aggregated LCS management group, underharvests cannot be carried over pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2017 quotas for aggregated LCS in the eastern Gulf of Mexico and western Gulf of Mexico sub-regions be equal to their annual base quotas without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

3. Proposed 2017 Quota for the Aggregated LCS in the Atlantic Region

The 2017 proposed commercial quota for aggregated LCS in the Atlantic region is 168.9 mt dw (372,552 lb dw). As of July 15, 2016, the aggregated LCS fishery in the Atlantic region is still open and preliminary landings indicate that only 25 percent of the quota has been harvested. Given the unknown status of some of the shark species within the Atlantic aggregated LCS management group, underharvests cannot be carried over pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with current regulations at § 635.27(b)(2), NMFS proposes that the 2017 quota for aggregated LCS in the Atlantic region be equal to the annual base quota without adjustment, because there have not been any overharvests and underharvests cannot be carried over due to stock status.

4. Proposed 2017 Quotas for Hammerhead Sharks in the Gulf of Mexico Region

In the Gulf of Mexico, hammerhead shark quotas are divided into two sub-regions: Western and eastern. The 2017 proposed commercial quotas for hammerhead sharks in the eastern Gulf of Mexico sub-region and western Gulf of Mexico sub-region are 13.4 mt dw (29,421 lb dw) and 11.9 mt dw (23,301 lb dw), respectively. As of July 15, 2016, preliminary reported landings for hammerhead sharks in the eastern Gulf of Mexico sub-region were at 50 percent (6.7 mt dw) of their 2016 quota levels (13.4 mt dw), while landings of hammerhead sharks in the western Gulf of Mexico sub-region were at 141 percent (16.8 mt dw) of their 2016 quota levels (11.9 mt dw). Even though the reported landings in the western Gulf of Mexico exceed the 2016 sub-regional quota, which was closed on March 12, 2016 (81 FR 12602), the total regional Gulf of Mexico reported landings have not exceeded the 2016 quota to date. Consistent with the regulations implemented through Amendment 6 to the Consolidated HMS FMP, sub-regional quota overages (*e.g.,* western Gulf of Mexico sub-region) are only deducted in the next year if the total regional quota (*e.g.,* Gulf of Mexico region) is also exceeded. Thus, pursuant to § 635.27(b)(2)(i), at this time, because the overall regional quota has not been overharvested, NMFS is not proposing to adjust the western Gulf of Mexico sub-region quota to account for the overharvest. However, because the eastern Gulf of Mexico sub-region is open and quota is still available in that sub-region, NMFS expects that landings will continue to occur. If landings in the eastern Gulf of Mexico sub-region exceed 8.5 mt dw (18,659 lb dw) (*i.e.,* the remainder of the total regional Gulf of Mexico quota), then NMFS would reduce the western Gulf of Mexico sub-region quota to account for overharvests, pursuant to § 635.27(b)(2)(i). If the quota is not fully harvested, given the overfished status of hammerhead sharks, NMFS would not carry forward any underharvests, pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), at this time, NMFS proposes that the 2017 quotas for hammerhead sharks in the eastern Gulf of Mexico and western Gulf of Mexico sub-regions be equal to their annual base quotas without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status. However, as noted above, if landings in the eastern Gulf of Mexico sub-region exceed 8.5 mt dw, NMFS would adjust the western Gulf of Mexico sub-region quota accordingly in the final rule.

5. Proposed 2017 Quotas for Hammerhead Sharks in the Atlantic Region

The 2017 proposed commercial quota for hammerhead sharks in the Atlantic region is 27.1 mt dw (59,736 lb dw). Currently, the hammerhead shark fishery in the Atlantic region is still open and preliminary landings as of July 15, 2016, indicate that only 35 percent of the quota has been harvested. Given the overfished status of hammerhead sharks, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2017 quota for hammerhead sharks in the Atlantic region be equal to the annual base quota without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

6. Proposed 2017 Quotas for Research LCS and Sandbar Sharks Within the Shark Research Fishery

The 2017 proposed commercial quotas within the shark research fishery are 50.0 mt dw (110,230 lb dw) for research LCS and 90.7 mt dw (199,943 lb dw) for sandbar sharks. Within the shark research fishery, as of July 15, 2016, preliminary reported landings of research LCS were at 14 percent (7.2 mt dw) of their 2016 quota levels (50.0 mt dw), and sandbar shark reported landings were at 39 percent (34.9 mt dw) of their 2016 quota levels (27.1 mt dw). Reported landings have not exceeded the 2016 quotas to date. Under § 635.27(b)(2)(ii), because sandbar sharks and scalloped hammerhead sharks within the research LCS management group have been determined to be either overfished or overfished with overfishing occurring, underharvests for these management groups cannot be carried forward to the 2017 quotas. Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2017 quota in the shark research fishery be equal to the annual base quota without adjustment because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

7. Proposed 2017 Quota for the Non-Blacknose SCS in the Gulf of Mexico Region

The 2017 proposed commercial quota for non-blacknose SCS in the Gulf of Mexico region is 112.6 mt dw (248,215 lb dw). As of July 15, 2016, preliminary reported landings of non-blacknose SCS were at 38 percent (41.0 mt dw) of their 2016 quota level (107.3 mt dw) in the Gulf of Mexico region. Reported landings have not exceeded the 2016 quota to date. Given the unknown status of bonnethead sharks within the Gulf of Mexico non-blacknose SCS management group, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2017 quota for non-blacknose SCS in the Gulf of Mexico region be equal to the annual base quota without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

8. Proposed 2016 Quota for the Non-Blacknose SCS in the Atlantic Region

The 2017 proposed commercial quota for non-blacknose SCS in the Atlantic region is 264.1 mt dw (582,333 lb dw). As of July 15, 2016, preliminary reported landings of non-blacknose SCS were at 15 percent (40.4 mt dw) of their 2016 quota level (264.1 mt dw) in the Atlantic region. Though reported landings had not yet reached or exceeded the 2016 quota, the fishery south of 34° N. latitude was closed on May 29, 2016 (81 FR 18541), due to the quota linkage with blacknose sharks in the Atlantic region. The non-blacknose SCS fishery north of 34° N. latitude remains open at this time. Given the unknown status of bonnethead sharks within the Atlantic non-blacknose SCS management group, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2017 quota for non-blacknose SCS in the Atlantic region be equal to the annual base quota without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

9. Proposed 2017 Quota for the Blacknose Sharks in the Atlantic Region

The 2017 proposed commercial quota for blacknose sharks in the Atlantic region is 17.2 mt dw (37,921 lb dw). As of July 15, 2016, preliminary reported landings of blacknose sharks were at 78 percent (12.2 mt dw) of their 2016 quota levels (15.7 mt dw) in the Atlantic region. The fishery was closed on May 29, 2016 (81 FR 18541). In the final rule establishing quotas for the 2014 shark season (78 FR 70500; November 26, 2013), NMFS spread out the 2012 overharvest (2.5 mt dw; 5,555 lb dw) of the blacknose shark quota across 5 years (2014 through 2018) in the Atlantic region by 0.5 mt dw (1,111 lb dw) each year. This approach for spreading large overharvests over several years up to 5 years is consistent with the approach adopted in Amendment 2 to the 2006 Consolidated HMS FMP (see § 635.27(b)(2)(i)), which determined to spread out the pay back over five years depending on the magnitude of the overharvest and the potential impact on the fishery (73 FR 40658; July 15, 2008). In 2015, the blacknose shark quota was overharvested by 3.0 mt dw (6,471 lb dw). In the final rule establishing quotas for the 2016 shark season (80 FR 74999; December 1, 2015), NMFS spread this 2015 overharvest amount over 3 years at 1.0 mt dw (2,157 lb dw) each year from 2016 through 2018. Thus, in the final rule establishing quotas for the 2016 shark season, NMFS decided to reduce the blacknose shark base annual quota by 1.5 mt dw (3,268 lb dw), based on the 2012 and 2015 overharvest amount, in 2016, 2017, and 2018. On May 29, 2016, NMFS closed the Atlantic blacknose shark management group because the quota was projected to exceed 80 percent. However, as of July 15, 2016, the Atlantic blacknose shark quota was underharvested by 3.5 mt dw (7,737 lb dw). This underharvest (3.5 mt dw) is greater than the remaining amount of the 2012 and 2015 overharvests (3.0 mt dw)(6,636 lb dw). As such, NMFS is proposing to use the 2016 underharvest to cover the remaining 2012 and 2015 overharvest. Pursuant to § 635.27(b)(2), because blacknose sharks have been declared to be overfished with overfishing occurring in the Atlantic region, NMFS could not carry forward the remaining underharvest (0.5 mt dw). Therefore, NMFS proposes that the 2017 Atlantic blacknose shark quota be equal to the annual base quota without adjustment. Note, the blacknose shark quota is available in the Atlantic region only for those vessels operating south of 34° N. latitude. North of 34° N. latitude, retention, landing, and sale of blacknose sharks are prohibited.

10. Proposed 2017 Quotas for the Smoothhound Sharks in the Gulf of Mexico Region

The 2017 proposed commercial quota for smoothhound sharks in the Gulf of Mexico region is 504.6 mt dw (1,112,441 lb dw). As of July 15, 2016, there are no preliminary reported landings of smoothhound sharks in the Gulf of Mexico region. Gulf of Mexico smoothhound sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for smoothhound sharks within the Gulf of Mexico region therefore could be applied to the 2017 quotas up to 50 percent of the base quota. Accordingly, NMFS proposes to increase the 2017 Gulf of Mexico smoothhound shark quota to adjust for anticipated underharvests in 2016 as allowed. The proposed 2017 adjusted base annual quota for Gulf of Mexico smoothhound sharks is 504.6 mt dw (1,112,441 lb dw) (336.4 mt dw annual base quota + 168.2 mt dw 2016 underharvest = 504.6 mt dw 2017 adjusted annual quota).

11. Proposed 2017 Quotas for the Smoothhound Sharks in the Atlantic Region

The 2017 proposed commercial quota for smoothhound sharks in the Atlantic region is 1,802.6 mt dw (1,323,862 lb dw). As of July 15, 2016, preliminary reported landings of smoothhound sharks were at 15 percent (183.2 mt dw) of their 2016 quota levels (1,201.7 mt dw) in the Atlantic region. Atlantic smoothhound sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for smoothhound sharks within the Atlantic region therefore could be applied to the 2017 quotas up to 50 percent of the base quota. Accordingly, NMFS proposes to increase the 2017 Atlantic smoothhound shark quota to adjust for anticipated underharvests in 2016 as allowed. The proposed 2017 adjusted base annual quota for Atlantic smoothhound sharks is 1,802.6 mt dw (1,323,862 lb dw) (1,201.7 mt dw annual base quota + 600.9 mt dw 2016 underharvest = 1,802.6 mt dw 2017 adjusted annual quota).

12. Proposed 2017 Quotas for Pelagic Sharks

The 2017 proposed commercial quotas for blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) are 273 mt dw (601,856 lb dw), 1.7 mt dw (3,748 lb dw), and 488 mt dw (1,075,856 lb dw), respectively. As of July 15, 2016, there are no preliminary reported landings of blue sharks and porbeagle sharks, while preliminary reported landings of pelagic sharks (other than porbeagle and blue sharks) were at 11 percent (54.1 mt dw) of their 2016 quota level (488.0 mt dw). Given that these pelagic species are overfished, have overfishing occurring, or have an unknown status, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2017 quotas for blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) be equal to their annual base quotas without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

Proposed Opening Dates and Retention Limits for the 2017 Atlantic Commercial Shark Fishing Season

For each fishery, NMFS considered the seven "Opening Commercial Fishing

Season Criteria" listed at § 635.27(b)(3). The "Opening Fishing Season" criteria consider factors such as the available annual quotas for the current fishing season, estimated season length and average weekly catch rates from previous years, length of the season and fishermen participation in past years, impacts to accomplishing objectives of the 2006 Consolidated HMS FMP and its amendments, temporal variation in behavior or biology target species (*e.g.,* seasonal distribution or abundance), impact of catch rates in one region on another, and effects of delayed season openings.

Specifically, as described above and below, NMFS examined the 2016 and previous fishing years' over- and/or underharvests of the different management groups to determine the effects of the 2017 proposed commercial quotas on the shark stocks and fishermen across regional and sub-regional fishing areas. NMFS also examined the potential season length and previous catch rates to ensure, to the extent practicable, that equitable fishing opportunities be provided to fishermen in all areas. Lastly, NMFS examined the seasonal variation of the different species/management groups and the effects on fishing opportunities.

As described below, NMFS also considered the six "Inseason trip limit adjustment criteria" listed at § 635.24(a)(8) for directed shark limited access permit holders intending to land LCS other than sandbar sharks. Those criteria are: The amount of remaining shark quota in the relevant area or region, to date, based on dealer reports; the catch rates of the relevant shark species/complexes, to date, based on dealer reports; estimated date of fishery closure based on when the landings are projected to reach 80 percent of the quota given the realized catch rates; effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge; and/or effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

After considering these criteria, NMFS is proposing that the 2017 Atlantic commercial shark fishing season for all shark management groups in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, open on or about January 1, 2017, after the publication of the final rule for this action (Table 2). NMFS is also proposing to start the 2017 commercial shark fishing season with the commercial retention limit of 30 LCS other than sandbar sharks per vessel per trip in the western Gulf of Mexico sub-region, 45 LCS other than sandbar sharks per vessel per trip in the eastern Gulf of Mexico sub-region, and 36 LCS other than sandbar sharks per vessel per trip in the Atlantic region (Table 2). However, at the time of writing this proposed rule, some management groups remain open and, for those management groups that are already closed, landings are still being calculated and checked for quality control and assurance. Thus, NMFS may implement different opening dates and commercial retention limits in the final rule if there are underharvested quotas or quota exceedances in 2016 that are not accounted for in this proposed rule.

TABLE 2—QUOTA LINKAGES, SEASON OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP

Region or sub-region	Management group	Quota linkages	Season opening dates	Commercial retention limits for directed shark limited access permit holders (inseason adjustments are possible)
Eastern Gulf of Mexico	Blacktip Sharks	Not Linked	January 1, 2017	45 LCS other than sandbar sharks per vessel per trip.
	Aggregated Large Coastal Sharks. Hammerhead Sharks.	Linked		
Western Gulf of Mexico	Blacktip Sharks	Not Linked	January 1, 2017	30 LCS other than sandbar sharks per vessel per trip.
	Aggregated Large Coastal Sharks. Hammerhead Sharks.	Linked		
Gulf of Mexico	Non-Blacknose Small Coastal Sharks.	Not Linked	January 1, 2017	N/A.
	Smoothhound Sharks	Not Linked	January 1, 2017	N/A.
Atlantic	Aggregated Large Coastal Sharks. Hammerhead Sharks.	Linked	January 1, 2017	36 LCS other than sandbar sharks per vessel per trip. If quota is landed quickly (e.g., if approximately 20 percent of quota is caught at the beginning of the year), NMFS anticipates an inseason reduction (e.g., to 3 or fewer LCS other than sandbar sharks per vessel per trip), then an inseason increase to 45 LCS other than sandbar sharks per vessel per trip around July 15, 2017.
	Non-Blacknose Small Coastal Sharks. Blacknose Sharks (South of 34° N. lat. only).	Linked (South of 34° N. lat. only).	January 1, 2017	N/A.
	Smoothhound Sharks	Not Linked	January 1, 2017	N/A.
No regional quotas	Non-Sandbar LCS Research. Sandbar Shark Research.	Linked	January 1, 2017	N/A.
	Blue Sharks Porbeagle Sharks.	Not Linked	January 1, 2017	N/A.

TABLE 2—QUOTA LINKAGES, SEASON OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP—Continued

Region or sub-region	Management group	Quota linkages	Season opening dates	Commercial retention limits for directed shark limited access permit holders (inseason adjustments are possible)
	Pelagic Sharks Other Than Porbeagle or Blue.			

In the Gulf of Mexico region, we are opening the fishing season on or about January 1, 2017, for the aggregated LCS, blacktip sharks, and hammerhead shark management groups with the commercial retention limits of 30 LCS other than sandbar sharks per vessel per trip for directed shark permit holders in the western sub-region—and 45 LCS other than sandbar sharks per vessel per trip for directed shark permit holders in the eastern sub-region. This would provide, to the extent practicable, equitable opportunities across the fisheries management sub-regions. This opening date takes into account all the season opening criteria listed in § 635.27(b)(3), and particularly the criteria that NMFS consider the length of the season for the different species and/or management group in the previous years (§ 635.27(b)(3)(ii) and (iii)) and whether fishermen were able to participate in the fishery in those years (§ 635.27(b)(3)(v)). The proposed commercial retention limits take into account the criteria listed in § 635.24 (a)(8), and particularly the criterion that NMFS consider the catch rates of the relevant shark species/complexes based on dealer reports to date (§ 635.24(a)(8)(ii)). Similar to the retention limit adjustment process described for the Atlantic region, NMFS may consider adjusting the retention limit in the Gulf of Mexico region throughout the season to ensure fishermen in all parts of the region have an opportunity to harvest aggregated LCS, blacktip sharks, and hammerhead sharks (see the criteria listed at § 635.27(b)(3)(v) and § 635.24(a)(8)(ii), (v), and (vi)). In 2016, the quota in the western Gulf of Mexico sub-region was harvested quickly and NMFS closed these management groups on March 12, 2016 (81 FR 12602) (see the criteria listed at § 635.27(b)(3)(i), (ii), and (iii) and § 635.24(a)(8)(i) and (iii)). As such, in 2017, NMFS is proposing a slightly lower trip limit in order to slow the harvest level and ensure the management group is open until at least April 2017, which is when the State of Louisiana closes state waters to shark fishing and when that State has asked that we close Federal shark fisheries to match state regulations if quotas are limited (see the criteria listed at § 635.27(b)(3)(vii) and 635.24(a)(8)(iii)). In the eastern Gulf of Mexico, NMFS is proposing the same commercial trip limit for these management groups that was set in 2016. Currently, the aggregated LCS, blacktip shark, and hammerhead shark management groups are still open in the eastern Gulf of Mexico sub-region (see the criteria listed at § 635.27(b)(3)(i), (ii), (iii), and (v), and § 635.24(a)(8)(i), (ii), (iii), (v), and (vi)). If those fisheries close, and after the overall preliminary landings for the Gulf of Mexico region are estimated for the 2016 fishing season, NMFS could make changes to the 2017 opening dates and commercial retention limits if necessary to ensure equitable fishing opportunities.

In the Atlantic region, NMFS proposes opening the aggregated LCS and hammerhead shark management groups on or about January 1, 2017. This opening date is the same date that these management groups opened in 2016, although that decision later attracted significant attention and opposition from shark advocates, particularly within the scuba diving community, with respect to what they argue to be a lemon shark aggregation site (see discussion below). As described below, this opening date also takes into account all the criteria listed in § 635.27(b)(3), and particularly the criterion that NMFS consider the effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species and/or management quotas (§ 635.27(b)(3)(v)). In 2016, the data indicate that an opening date of January 1 provided a reasonable opportunity for every part of each region to harvest a portion of the available quotas (§ 635.27(b)(3)(i)) while accounting for variations in seasonal distribution of the different species in the management groups (§ 635.27(b)(3)(iv)). Furthermore, in 2016, the fishing season for the aggregated LCS and hammerhead shark management groups remains currently open with 25 percent of the quotas available as of July 15, 2016. Because the quotas in 2017 are proposed to be the same as the quotas in 2016, NMFS expects that the season lengths and therefore the participation of various fishermen throughout the region, would be similar in 2017 (§ 635.27(b)(3)(ii) and (iii)). Based on the recent performance of the fishery, the January 1 opening date appears to be meet the objectives of the 2006 Consolidated HMS FMP and its amendments ((§ 635.27(b)(3)(vi)). Therefore, there is no information that indicates changing the opening date is necessary.

After the final rule for the 2016 shark season published on December 1, 2015 (80 FR 74999), and well outside the close of the public comment period for that rule (September 17, 2015), NMFS received extensive public comments opposing the January 1 opening date (for the aggregated LCS and hammerhead shark management groups) because of their concerns about a lemon shark aggregation site off the east coast of Florida which has become a popular local shark scuba diving site. Commenters requested that NMFS change the opening date to the summer months (*e.g.,* June or July) to protect this lemon shark aggregation. NMFS also received a petition to postpone the opening date in the Atlantic region signed by more than 18,000 people. NMFS responded to the petition as a petition for emergency rulemaking but did not change the January 1 start date in response. Based on these comments and the petition, NMFS held a public conference call on December 11, 2015, to answer public questions regarding the Atlantic commercial shark fishery. NMFS also gave a presentation on the biology and current stock status of lemon sharks at the March 2016 HMS Advisory Panel meeting. Data presented at the Advisory Panel meeting indicated that lemon sharks may be more productive than previously thought, the commercial shark fishery is not having a significant impact on lemon sharks in the aggregation area or elsewhere, and current data on relative abundance suggest population is stable. Landings of lemon sharks to date in the Atlantic region are approximately 4,855 mt dw (2.2 lb dw), which are less than the average landings over the past 6 years (see the criteria at § 635.27(b)(3)(iv), (v), and (vi) and § 635.24(a)(8)(ii), (iv), and (v)). There is no evidence that these landings have negatively impacted the lemon shark population according to the Southeast Fisheries Science Center scientists. Furthermore, NMFS considered information in the comments received on the December 2015 final rule in proposing a start date for 2017 and has determined they presented no new or additional information that was not previously considered by the agency that would warrant a different opening date. Therefore, NMFS is proposing the same opening dates for the 2017 fishing season. This opening date meets the management objectives of the 2006 Consolidated HMS FMP and its amendments (see the criteria at § 635.27(b)(3)(vi)) particularly in regard to ensuring fishermen throughout the region have reasonable opportunities to harvest a portion of the different species and/or management group quotas (see the criteria at § 635.27(b)(3)(v) and (vii)) while also considering important scientific information on the seasonal distribution, abundance, and migratory patterns of the different species within the management group (see the criteria at § 635.27(b)(3)(ii)). As described above, the fishery has performed well, and in accordance with the objectives of the 2006 Consolidated HMS FMP, under the January 1 opening date. Therefore, there is no information suggesting that changing the opening date is necessary. However, NMFS will consider through this rulemaking any comments on the opening date and any new information on lemon sharks (or other species) not previously considered, and may in the final rule, adjust the opening dates if warranted. The Notice of Availability for Amendment 10 to the 2006 Consolidated HMS FMP, which should be publishing soon, will address essential fish habitat and potential habitat areas of particular concern for HMS species, including lemon sharks.

In addition, for the aggregated LCS and hammerhead shark management groups in the Atlantic region, NMFS is proposing that the commercial retention trip limit for directed shark limited access permit holders on the proposed opening date be 36 LCS other than sandbar sharks per vessel per trip. This retention limit should allow fishermen to harvest some of the 2017 quota at the beginning of the year when sharks are more prevalent in the South Atlantic area (see the criteria at § 635.24(a)(3)(i), (ii), (v), and (vi)). As was done in 2016, if it appears that the quota is being harvested too quickly (*i.e.*, about 20 percent) to allow directed fishermen throughout the entire region an opportunity to fish and ensure enough quota remains until later in the year, NMFS would reduce the commercial retention limits to incidental levels (3 LCS other than sandbar sharks per vessel per trip) or another level calculated to reduce the harvest of LCS taking into account § 635.27(b)(3) and the inseason trip limit adjustment criteria listed in § 635.24(a)(8), particularly the consideration of whether catch rates in one part of a region or sub-region are precluding vessels in another part of that region or sub-region from having a reasonable opportunity to harvest a portion of the relevant quota (§ 635.24(a)(8)(vi)). If the quota continues to be harvested quickly, NMFS could reduce the retention limit to 0 LCS other than sandbar sharks per vessel per trip to ensure enough quota remains until later in the year. If either situation occurs, NMFS would publish in the **Federal Register** notification of any inseason adjustments of the retention limit to an appropriate limit of sharks per trip. In 2016, NMFS reduced the retention limit to 3 LCS other than sandbar sharks on April 2, 2016 (81 FR 18541) when hammerhead shark landings reached approximately 24 percent of the hammerhead quota, and did not need to reduce it further.

Also, as was done in 2016, NMFS will consider increasing the commercial retention limits per trip at a later date if necessary to provide fishermen in the northern portion of the Atlantic region an opportunity to retain non-sandbar LCS after considering the appropriate inseason adjustment criteria. Similarly, at some point later in the year (*e.g.*, July 15), potentially equivalent to how the 2016 fishing season operated, NMFS may consider increasing the retention limit to the default level (45 LCS other than sandbar sharks per vessel per trip) or another amount, as deemed appropriate, after considering the inseason trip limit adjustment criteria. If the quota is being harvested too quickly or too slowly, NMFS could adjust the retention limit appropriately to ensure the fishery remains open most of the rest of the year. Since the fishery is still open with majority of the quota available, NMFS will monitor the rest of the fishing season and could make changes to the proposed 2017 opening date if necessary to ensure equitable fishing opportunities.

All of the shark management groups would remain open until December 31, 2017, or until NMFS determines that the fishing season landings for any shark management group have reached, or are projected to reach, 80 percent of the available quota. If NMFS determines that a non-linked shark species or management group must be closed, then, consistent with § 635.28(b)(2) for non-linked quotas (*e.g.*, eastern Gulf of Mexico blacktip, western Gulf of Mexico blacktip, Gulf of Mexico non-blacknose SCS, pelagic sharks, or the Atlantic or Gulf of Mexico smoothhound sharks), NMFS will publish in the **Federal Register** a notice of closure for that shark species, shark management group, region, and/or sub-region that will be effective no fewer than 5 days from date of filing. For the blacktip shark management group, regulations at § 635.28(b)(5)(i) through (v) authorize NMFS to close the management group before landings reach, or are expected to reach, 80 percent of the quota after considering the following criteria and other relevant factors: Season length based on available sub-regional quota and average sub-regional catch rates; variability in regional and/or sub-regional seasonal distribution, abundance, and migratory patterns; effects on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; amount of remaining shark quotas in the relevant sub-region; and regional and/or sub-regional catch rates of the relevant shark species or management groups. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for the shark species or management group are closed, even across fishing years.

If NMFS determines that a linked shark species or management group must be closed, then, consistent with § 635.28(b)(3) for linked quotas, NMFS will publish in the **Federal Register** a notice of closure for all of the species and/or management groups in a linked group that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for all linked species and/or management groups are closed, even across fishing years. The linked quotas of the species and/or management groups are Atlantic hammerhead sharks and Atlantic aggregated LCS; eastern Gulf of Mexico hammerhead sharks and eastern Gulf of Mexico aggregated LCS; western Gulf of Mexico hammerhead sharks and western Gulf of Mexico aggregated LCS; and Atlantic blacknose and Atlantic non-blacknose SCS south of 34° N. latitude. NMFS may close the fishery for the Gulf of Mexico blacktip shark before landings reach, or are expected to reach, 80 percent of the quota, after considering the criteria listed at § 635.28(b)(5).

Request for Comments

Comments on this proposed rule may be submitted via *http://www.regulations.gov* by mail, and at a public hearing. NMFS solicits comments on this proposed rule by September 27, 2016 (see **DATES** and **ADDRESSES**).

In addition to comments on the entire proposed rule, NMFS is specifically requesting comments on the proposed accounting of the 2012 and 2015 overharvest of Atlantic blacknose sharks from the 2016 underharvest. As described above, in 2016, NMFS closed the Atlantic blacknose shark management group once the quota was projected to exceed 80 percent. As of July 15, 2016, the Atlantic blacknose shark quota was underharvested by 3.5 mt dw (7,737 lb dw). This underharvest (3.5 mt dw) is greater than the remaining amounts of the 2012 and 2015 overharvests (3.0 mt dw) (6,636 lb dw). As such, NMFS is proposing to use the 2016 underharvest to cover the remaining 2012 and 2015 overharvest. This proposal would reduce potential negative social and economic impacts on the blacknose shark and non-blacknose SCS fisheries, which are linked fisheries in the Atlantic region south of 34° N. latitude while maintaining the ecological benefits of the current blacknose shark rebuilding plan. If NMFS continued to spread the overharvest from 2012 and 2015 through 2018, the Atlantic blacknose shark quota in 2017 would be reduced by 1.5 mt dw (3,268 lb dw) in 2017 and the 2017 adjusted quota would be 15.7 mt dw (34,653 lb dw). However, if NMFS uses the 2016 underharvest to cover the remaining overharvest 2012 and 2015 overharvest, the blacknose shark quota would not be reduced in 2017 or 2018 as a result of the 2012 and 2015 overharvests. As a result of this proposal, the 2017 annual base quota would be 17.2 mt dw (37,921 lb dw), which could result in the fishery remaining open longer in the Atlantic region south of 34° N. latitude and have social and economic beneficial impacts for blacknose and non-blacknose fishermen and dealers.

During the comment period, NMFS will hold one conference call and webinar for this proposed rule. NMFS is requesting comments on any of the measures or analyses described in this proposed rule. The conference call and webinar will be held on September 22, 2016, from 2–4 p.m. EST. Please see the **DATES** and **ADDRESSES** headings for more information.

The public is reminded that NMFS expects participants on phone conferences to conduct themselves appropriately. At the beginning of the conference call, a representative of NMFS will explain the ground rules (*e.g.*, all comments are to be directed to the agency on the proposed action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; attendees may not interrupt one another; etc.). NMFS representative(s) will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not may be removed from the conference call.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

NMFS determined that the final rules to implement Amendment 2 to the 2006 Consolidated HMS FMP (June 24, 2008, 73 FR 35778; corrected on July 15, 2008, 73 FR 40658), Amendment 5a to the 2006 Consolidated HMS FMP (78 FR 40318; July 3, 2013), Amendment 6 to the 2006 Consolidated HMS FMP (80 FR 50073; August 18, 2015), and Amendment 9 to the 2006 Consolidated HMS FMP (80 FR 73128; November 24, 2015) are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states on the Atlantic including the Gulf of Mexico and the Caribbean Sea as required under the Coastal Zone Management Act. Pursuant to 15 CFR 930.41(a), NMFS provided the Coastal Zone Management Program of each coastal state a 60-day period to review the consistency determination and to advise the Agency of their concurrence. NMFS received concurrence with the consistency determinations from several states and inferred consistency from those states that did not respond within the 60-day time period. This proposed action to establish opening dates and adjust quotas for the 2017 fishing season for the Atlantic commercial shark fisheries does not change the framework previously consulted upon; therefore, no additional consultation is required.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA analysis follows.

Section 603(b)(1) of the RFA requires agencies to explain the purpose of the rule. This rule, consistent with the Magnuson-Stevens Act and the 2006 Consolidated HMS FMP and its amendments, is being proposed to establish the 2017 commercial shark fishing quotas, retention limits, and fishing seasons. Without this rule, the commercial shark fisheries would close on December 31, 2016, and would not open until another action was taken. This proposed rule would be implemented according to the regulations implementing the 2006 Consolidated HMS FMP and its amendments. Thus, NMFS expects few, if any, economic impacts to fishermen other than those already analyzed in the 2006 Consolidated HMS FMP and its amendments, based on the quota adjustments.

Section 603(b)(2) of the RFA requires agencies to explain the rule's objectives. The objectives of this rule are to: Adjust the baseline quotas for all Atlantic shark management groups based on any over- and/or underharvests from the previous fishing year(s); establish the opening dates of the various management groups; and establish the retention limits for the blacktip shark, aggregated large coastal shark, and hammerhead shark management groups in order to provide, to the extent practicable, equitable opportunities across the fishing management regions and/or sub-regions while also considering the ecological needs of the different shark species.

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. Provision is made under SBA's regulations for an agency to develop its own industry-specific size standards after consultation with Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by

NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the **Federal Register** (FR), which NMFS did on December 29, 2015 (80 FR 81194, December 29, 2015). In this final rule effective on July 1, 2016, NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS permit holders to be small entities because they had average annual receipts of less than $11 million for commercial fishing.

As of July 2016, the proposed rule would apply to the approximately 224 directed commercial shark permit holders, 272 incidental commercial shark permit holders, 89 smoothhound shark permit holders, and 108 commercial shark dealers. Not all permit holders are active in the fishery in any given year. Active directed commercial shark permit holders are defined as those with valid permits that landed one shark based on HMS electronic dealer reports. Of the 496 directed and incidental commercial shark permit holders, only 23 permit holders landed sharks in the Gulf of Mexico region and only 88 landed sharks in the Atlantic region. Of the 89 smoothhound shark permit holders, only 49 permit holders landed smoothhound sharks in the Atlantic region and none landed smoothhound sharks in the Gulf of Mexico region. NMFS has determined that the proposed rule would not likely affect any small governmental jurisdictions.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603(b)(4)). Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)). Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements as domestically implemented, domestic laws, and FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act.

Section 603(c) of the RFA requires each IRFA to contain a description of any significant alternatives to the proposed rule which would accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities. Additionally, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and, (4) exemptions from coverage of the rule for small entities. In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities; therefore, there are no alternatives discussed that fall under the first and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act; therefore, there are no alternatives considered under the third category.

This rulemaking does not establish management measures to be implemented, but rather implements previously adopted and analyzed measures with adjustments, as specified in the 2006 Consolidated HMS FMP and its amendments and the Environmental Assessment (EA) that accompanied the 2011 shark quota specifications rule (75 FR 76302; December 8, 2010). Thus, NMFS proposes to adjust quotas established and analyzed in the 2006 Consolidated HMS FMP and its amendments by subtracting the underharvest or adding the overharvest as allowable. Thus, NMFS has limited flexibility to modify the quotas in this rule, the impacts of which were analyzed in previous regulatory flexibility analyses.

Based on the 2015 ex-vessel price, fully harvesting the unadjusted 2017 Atlantic shark commercial baseline quotas could result in total fleet revenues of $8,265,467 (see Table 3). For the Gulf of Mexico blacktip shark management group, NMFS is proposing to increase the baseline sub-regional quotas due to the underharvests in 2016. The increase for the eastern Gulf of Mexico blacktip shark management group could result in a $24,141 gain in total revenues for fishermen in that sub-region, while the increase for the western Gulf of Mexico blacktip shark management group could result in a $222,196 gain in total revenues for fishermen in that sub-region. For the Gulf of Mexico and Atlantic smoothhound shark management groups, NMFS is proposing to increase the baseline quotas due to the underharvest in 2016. This would cause a potential gain in revenue of $270,323 for the fleet in the Gulf of Mexico region and a potential gain in revenue of $965,095 for the fleet in the Atlantic region.

All of these changes in gross revenues are similar to the changes in gross revenues analyzed in the 2006 Consolidated HMS FMP and its amendments. The final regulatory flexibility analyses for those amendments concluded that the economic impacts on these small entities are expected to be minimal. In the 2006 Consolidated HMS FMP and its amendments and the EA for the 2011 shark quota specifications rule, NMFS stated it would be conducting annual rulemakings and considering the potential economic impacts of adjusting the quotas for under- and overharvests at that time.

TABLE 3—AVERAGE EX-VESSEL PRICES PER LB DW FOR EACH SHARK MANAGEMENT GROUP, 2015

Region	Species	Average ex-vessel meat price	Average ex-vessel fin price
Gulf of Mexico	Blacktip Shark	$0.51	$9.95
	Aggregated LCS	0.55	9.96
	Hammerhead Shark	0.61	11.98
	Non-Blacknose SCS	0.35	6.72
	Smoothhound Shark *	0.65	1.58

TABLE 3—AVERAGE EX-VESSEL PRICES PER LB DW FOR EACH SHARK MANAGEMENT GROUP, 2015—Continued

Region	Species	Average ex-vessel meat price	Average ex-vessel fin price
Atlantic	Aggregated LCS	0.80	4.73
	Hammerhead Shark	0.65	10.25
	Non-Blacknose SCS	0.73	4.36
	Blacknose Shark	0.97	4.00
	Smoothhound Shark *	0.65	1.58
No Region	Shark Research Fishery (Aggregated LCS)	0.68	9.24
	Shark Research Fishery (Sandbar only)	0.76	10.62
	Blue shark	0.60	2.93
	Porbeagle shark	1.50	2.93
	Other Pelagic sharks	1.50	2.93

* Ex-vessel prices for smoothhound sharks come from HMS dealers who submitted landings data voluntarily before it was a requirement on March 15, 2016.

For this proposed rule, NMFS also reviewed the criteria at § 635.27(b)(3) to determine when opening each fishery would provide equitable opportunities for fishermen, to the extent practicable, while also considering the ecological needs of the different species. The opening dates of the fishing season(s) could vary depending upon the available annual quota, catch rates, and number of fishing participants during the year. For the 2017 fishing season, NMFS is proposing to open all of the shark management groups on the effective date of the final rule for this action (expected to be on or about January 1). The direct and indirect economic impacts would be neutral on a short- and long-term basis because NMFS is not proposing to change the opening dates of these fisheries from the status quo.

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

Dated: August 22, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–20505 Filed 8–26–16; 8:45 am]

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Notices

Federal Register
Vol. 81, No. 167
Monday, August 29, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Submission for OMB Review; Comment Request

August 24, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by September 28, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Annual Wildfire Summary Report.

OMB Control Number: 0596–0025.

Summary of Collection: The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101) requires the Forest Service (FS) to collect information about wildfire suppression efforts by State and local fire fighting agencies in order to support specific congressional funding requests for the Forest Service State and Private Forestry Cooperative Fire Program. The program provides supplemental funding for State and local fire fighting agencies. The FS works cooperatively with State and local fire fighting agencies to support their fire suppression efforts. FS will collect information using form FS 3100–8, Annual Wildfire Summary Report.

Need and Use of the Information: FS will collect information using form FS–3100–8 to determine if the Cooperative Fire Program funds, provided to the State and local fire fighting agencies have been used by State and local agencies to improve their fire suppression capabilities. The information collected includes the numbers of fires and acres burned on State and private land by cause, such as lightning, campfires, smoking, debris burning, arson, equipment, railroads, children and miscellaneous activities. Information about the importance of the State and Private Cooperative Fire Program will be shared with the pubic. FS would be unable to assess the effectiveness of the State and Private Forestry Cooperative Fire Program if the information provided on FS–3100–8, were not collected.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 56.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 28.

Forest Service

Title: Land Exchanges.

OMB Control Number: 0596–0105.

Summary of Collection: Land exchanges are discretionary, voluntary real estate transactions between the Secretary of Agriculture (acting by and through the Forest Service) and a non-Federal exchange party (or parties). Land exchanges can be initiated by a non-Federal party (or parties), and agent of a landowners, a broker, a third party, or a non-Federal public agency. Each land exchange requires preparation of an *Agreement to Initiate,* as required by Title 36 Code of Federal Regulations (CFR), part 254, subpart C, section 254.4—Agreement to Initiate and Exchange. As the exchange proposal develops, the exchange parties may enter into a binding Exchange Agreement, pursuant to Title 36 CFR part 254, subpart A, section 254.14—Exchange Agreement.

Need and Use of the Information: The *Agreement to Initiate* document specifies the preliminary and on-biding intentions of the non-Federal land exchange party and the Forest Service in pursuing a land exchange. The *Agreement to Initiate* contains information such as the description of properties considered for exchange, an implementation schedule of action items, identification of the party responsible for each action item, and target dates for completion of action items.

The Exchange Agreement documents the conditions necessary to complete the exchange. It contains information identifying parties, description of lands and interests to be exchanged, identification of all reserved and outstanding interests, and all other terms and conditions that are necessary to complete the exchange.

Description of Respondents: Business or other for-profit; Individuals or households; State, Local or Tribal Government

Number of Respondents: 19.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 124.

Forest Service

Title: The Role of Local Communities in the Development of Agreement or Contract Plans through Stewardship Contracting.

OMB Control Number: 0596–0201.

Summary of Collection: Section 8205 of Public Law 113–79, the Agricultural Act of 2014, requires the Forest Service (FS) to report to Congress annually on the role of local communities in the development of agreement or contract plans through stewardship contracting. To meet that requirement FS conducts an annual telephone survey to gather the necessary information for FS to develop its annual report to Congress.

Need and Use of the Information: The survey will collect information on the role of local communities in the development of agreement or contract plans through stewardship contracting. The survey will provide information regarding the nature of the local community involved in developing agreement or contract plans, the nature of roles played by the entities involved in developing agreement or contract plans, the benefits to the community and agency by being involved in planning and development of contract plans, and the usefulness of stewardship contracting in helping meet the needs of local communities. FS posts the report on its Web page for viewing by the public. Congress also makes the agency reports available for use by organizations both inside and outside the government.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 75.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 56.

Forest Service

Title: Post-Decisional Administrative Review Process.

OMB Control Number: 0596–0231.

Summary of Collection: Under 36 CFR part 214, the Forest Service (FS), at its own discretion, provides a process by which holders, operators, and solicited applicants may appeal certain written decisions issued by a Responsible Official involving a written instrument authorizing the occupancy or use of National Forest System (NFS) lands and resources.

Need and Use of the Information: Information is collected and submitted from individuals who are holders or operators of a valid written authorization to occupy or use NFS lands and resources. The appellant must provide name, mailing address, daytime telephone number, email address, signature, and statements of how appellant is adversely affected by decision being appealed; relevant facts underlying the decision; discussion of issues raised by the decision; attempts to resolve issues under appeal with the Responsible Official and a statement of the relief sought. The information is used to review an agency decision on a written authorization against the issues raised by the appellant and determine whether to affirm or reverse the decision.

Description of Respondents: Individuals or households.

Number of Respondents: 226.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,808.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–20611 Filed 8–26–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Request for Public Comments for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Loving Support Award of Excellence

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection for awarding local agencies for excellence in WIC breastfeeding services and support. Section 231 of the Healthy, Hunger-Free Kids Act of 2010, Public Law 111–296, requires that the Department of Agriculture (USDA) establish a program to recognize WIC local agencies and clinics that demonstrate exemplary breastfeeding promotion and support activities.

DATES: Written comments must be received on or before October 28, 2016.

ADDRESSES: Comments may be submitted using the Federal eRulemaking Portal: *http://www.regulations.gov* or by mail: Sarah Widor, Director, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Room 520, Alexandria, VA 22302. All comments submitted in response to this notice will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. All comments will be made available publicly on the internet at *http://www.regulations.gov.*

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval.

FOR FURTHER INFORMATION CONTACT: Anne Bartholomew, Chief, Nutrition Services Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Room 520, Alexandria, VA 22302. Telephone: (703) 305–2746.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Loving Support Award of Excellence.

Form Number: Not applicable.

OMB Number: 0584–0591.

Expiration Date: 03/31/2017.

Type of Request: Revision of a Currently Approved Collection.

Abstract: This information collection is mandated by section 231 of the Healthy, Hunger-Free Kids Act of 2010 (HHFKA) (Pub. L. 111–296). Section 231 of the HHFKA requires USDA to implement a program to recognize exemplary breastfeeding support practices at WIC local agencies and clinics. The WIC Program provides breastfeeding promotion and support for pregnant and postpartum mothers as a part of its mission to improve the health of the approximately 8 million Americans it serves each month. Breastfeeding is a priority in WIC and WIC mothers are strongly encouraged to breastfeed their infants unless the mother or baby have a medical condition where breastfeeding is not advised.

In recognizing exemplary local agencies and clinics, the HHFKA requires that the Secretary consider the following criteria: (1) Performance measurements of breastfeeding; (2) the effectiveness of a peer counselor program; (3) the extent to which the agency or clinic has partnered with other entities to build a supportive breastfeeding environment for women participating in WIC; and (4) other criteria the Secretary considers appropriate after consultation with State and local program agencies. The information will be submitted voluntarily by WIC local agencies who will be applying for an award. FNS will use the information collected to evaluate the components of existing breastfeeding programs and support in WIC local agencies and make decisions about awards. This program is expected to provide models and motivate other local agencies and clinics to strengthen their breastfeeding promotion and support activities. Applications will be submitted online.

Affected Public: State, Local, Territories and Tribal Government. Respondent groups identified include the WIC local agencies who are applying for the award and the WIC State agencies who evaluate the applications.

Estimated Number of Respondents: The total estimated number of participants is 453: 363 local WIC agencies and 90 State WIC agencies.

A recent FNS study on WIC Breastfeeding Peer Counseling found that approximately two thirds of the local WIC agencies operate a "Loving Support Program." The Loving Support Program is an FNS initiative that equips WIC programs with an implementation and management model—the "Loving Support Model"—that serves as a framework for designing, building, and sustaining peer counseling programs; a requirement for award eligibility. Based on the findings of the study, it is estimated that approximately 1,210 of the 1,834 WIC local agencies will be eligible to apply for an award. Although the number of local agencies operating a Loving Support Program has increased, an average of only 16.4% of eligible respondents have applied over the past two years. In Fiscal Year (FY) 2014, 77 out of 607 eligible local agencies applied for an award (12.7%) and in FY 2015, 123 out of 607 eligible local agencies applied for an award (20.3%). Therefore, unlike the previous information collection request, the estimated number of respondents for local agency applications will not assume all eligible local WIC agencies will apply for an award. To better reflect the estimated number of respondents for subsequent years, FNS estimates that 30% (363) of eligible local agencies will respond annually. This reduces the total number of burden hours for the local WIC agencies from 1,214 to 907.5 hours. The estimated number of respondents for the State agency application evaluation is derived from the total number of State WIC agencies.

Estimated Number of Responses per Respondent: The estimated number of responses per respondent for the WIC local agency is one, as each eligible WIC local agency will submit one application. The estimated number of responses per respondent for the WIC State agency is 4.03, as each WIC State agency will evaluate approximately four applications annually. The estimated number of responses per respondent for the WIC State agency application evaluation was derived by dividing the total number of respondents for the WIC local agency applications, 363, by the total number of WIC State agencies, 90. FNS estimates that the overall responses per respondent for the entire collection is 1.60, which was derived by dividing the number of total annual responses 725.7, by the estimated number of respondents, 453.

Estimated Total Annual Responses: 725.7.

Estimated Time per Response: FNS estimates the WIC local agency application response is 2.5 hours, and the WIC State agency response is 1.5 hours. The overall response for the entire collection is 2.0 hours, which was derived by dividing the number of estimated total hours, 1,451.6, by the number of total annual responses by all respondents, 725.7.

Estimated Total Annual Burden on Respondents: 1,451.6 hours. The time for the WIC local agency is an estimated time for the agency to voluntarily review the instructions, fill out the "Loving Support Award of Excellence" application, and attach supportive documentation. The time for the State WIC agency is an estimated time for the agency to review the instructions, evaluate the components of the local WIC agencies applications, and make a recommendation for an award.

See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated number of respondent	Responses annually per respondent	Total annual responses (Col. B × C)	Estimated average number of hours per response *	Estimated total hours (Col. D × E)
Reporting Burden:					
WIC Local Agency Application	363.0	1.00	363.0	2.5	907.5
WIC State Agency Evaluation	90.0	4.03	362.7	1.5	544.1
Total Reporting Burden	453.0	1.60	725.7	2.0	1,451.6

* Estimated average # of hours per response includes .5 hours for reviewing instructions

Dated: August 9, 2016.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2016–20555 Filed 8–26–16; 8:45 am]

BILLING CODE 3410–30–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: September 21, 2016, 1:00 p.m. EDT

PLACE: U.S. Chemical Safety Board, 1750 Pennsylvania Ave. NW., Suite 910, Washington, DC 20006.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on September 21, 2016, starting at 1:00 p.m. EDT in Washington, DC, at the CSB offices located at 1750 Pennsylvania Avenue NW., Suite 910. The Board will provide an overview of: Fiscal Year 2016 accomplishments, the CSB's 2017—2021 strategic plan, the status of open investigations, audits from the Office of the Inspector General, financial and organizational updates, and the agency's action plan. An opportunity for public comment will be provided.

Additional Information

The meeting is free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the "Contact Person for Further Information," at least three business days prior to the meeting.

A conference call line will be provided for those who cannot attend in person. Please use the following dial-in number to join the conference:

Dial-In:

1 (888) 862–6557 U.S. Toll Free

1 (630) 691–2748 U.S. Toll

Confirmation Number: 43256576.

The CSB is an independent federal agency charged with investigating accidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents and hazards, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

Public Comment

The time provided for public statements will depend upon the number of people who wish to speak. Speakers should assume that their presentations will be limited to three minutes or less, but commenters may submit written statements for the record.

Contact Person for Further Information

Hillary Cohen, Communication Manager, at *public@csb.gov* or (202) 446–8094. Further information about this public meeting can be found on the CSB Web site at: *www.csb.gov.*

Dated: August 25, 2016.

Kara A. Wenzel,

Acting General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2016–20867 Filed 8–25–16; 4:15 pm]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 160816751–6751–01]

National Defense Stockpile Market Impact Committee Request for Public Comments on the Potential Market Impact of the Proposed Fiscal Year 2018 Annual Materials Plan

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The purpose of this notice is to advise the public that the National Defense Stockpile Market Impact Committee, co-chaired by the Departments of Commerce and State, is seeking public comments on the potential market impact of the proposed Fiscal Year 2018 National Defense Stockpile Annual Materials Plan. The role of the Market Impact Committee is to advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions, conversions, and disposals involving the stockpile and related material research and development projects. Public comments are an important element of the Committee's market impact review process.

DATES: To be considered, written comments must be received by September 28, 2016.

ADDRESSES: Address all comments concerning this notice to Eric Longnecker, U.S. Department of Commerce, Bureau of Industry and Security, Office of Strategic Industries and Economic Security, 1401 Constitution Avenue NW., Room 3876, Washington, DC 20230, fax: (202) 482–5650 (Attn: Eric Longnecker), email: *MIC@bis.doc.gov;* and Levi White, U.S. Department of State, Bureau of Energy Resources, 2201 C Street NW., Washington, DC 20520, fax: (202) 647–4037 (Attn: Levi White), email: *WhiteLA2@state.gov.*

FOR FURTHER INFORMATION CONTACT: Parya Milani, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: (202) 482–8228, fax: (202) 482–5650 (Attn: Parya Milani), email: *MIC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Strategic and Critical Materials Stock Piling Revision Act of 1979, as amended (the Stock Piling Act) (50 U.S.C. 98, *et seq.*), the Department of Defense's Defense Logistics Agency (DLA), as National Defense Stockpile Manager, maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. Section 9(b)(2)(G)(ii) of the Stock Piling Act (50 U.S.C. 98(h)(b)(2)(G)(ii)) authorizes the National Defense Stockpile Manager to fund material research and development projects to develop new materials for the stockpile.

Section 3314 of the Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to "advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile. . . ." The Committee must also balance market impact concerns with the statutory requirement to protect the U.S. Government against avoidable loss.

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, the Treasury, and Homeland Security, and is co-chaired by the Departments of Commerce and State. The FY 1993 NDAA directs the Committee to consult with industry representatives that produce, process, or consume the materials stored in or of interest to the National Defense Stockpile Manager.

As the National Defense Stockpile Manager, the DLA must produce an Annual Materials Plan proposing the maximum quantity of each listed material that may be acquired, disposed of, upgraded, converted, or sold by the DLA in a particular fiscal year. In Attachment 1, the DLA lists the quantities and type of activity (potential acquisition, potential disposal, potential upgrade, potential conversion, or potential sale) associated with each material in its proposed FY 2018 Annual Materials Plan ("AMP"). The quantities listed in Attachment 1 are not acquisition, disposal, upgrade, conversion or sales target quantities, but rather a statement of the proposed maximum quantity of each listed material that may be acquired, disposed of, upgraded, converted, or sold in a particular fiscal year by the DLA, as noted. The quantity of each material that will actually be acquired or offered for sale will depend on the market for the material at the time of the acquisition or offering, as well as on the quantity of each material approved for acquisition, disposal, conversion, or upgrade by Congress.

The Committee is seeking public comments on the potential market impact associated with the proposed FY 2018 AMP as enumerated in Attachment 1. Public comments are an important element of the Committee's market impact review process.

Submission of Comments

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the quantities associated with the proposed FY 2018 AMP. All comments must be submitted to the addresses indicated in this notice. All comments submitted through email must include the phrase "Market Impact Committee Notice of Inquiry" in the subject line.

The Committee encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on September 28, 2016. The Committee will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured.

All comments submitted in response to this notice will be made a matter of public record and will be available for public inspection and copying. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public record. The Committee will seek to protect such information to the extent permitted by law.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482–1900 for assistance.

Dated: August 23, 2016.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

PROPOSED FISCAL YEAR 2018 ANNUAL MATERIALS PLAN

Material	Unit	Quantity	Footnote
Potential Disposals:			
Beryllium Metal	ST	2	
Chromium, Ferro	ST	23,500	
Chromium, Metal	ST	200	
E-Waste	MT	50	(2)
Dysprosium	MT	0.5	
Germanium Scrap	kg	5,000	
Iridium Catalyst	Lbs	50	
Manganese, Ferro	ST	50,000	
Manganese, Metallurgical Grade	SDT	322,025	
Nickel Based Alloys	Lbs	150,000	
Platinum	Tr Oz	8,380	
Platinum—Iridium	Tr Oz	489	
Tantalum Carbide Powder	Lb Ta	3,777	
Tantalum Scrap	Lbs	190	
Tin	MT	804	
Titanium Based Alloys	Lbs	75,000	
Tungsten Metal Powder	LB W	275,738	(1)
Tungsten Ores and Concentrates	LB W	3,000,000	
Yttrium Aluminum Garnet Rods	kg	250	
Zinc	ST	7,993	(1)
Potential Acquisitions:			
Antimony	MT	1,100	
Beryllium Metal	ST	2	(3)
Boron Carbide	MT	1,000	
High Modulus High Strength Carbon Fibers	MT	72	
CZT (Cadmium Zinc Tellurium substrates)	cm^2	32,000	
Dysprosium	MT	0.5	
Electrolytic Manganese Metal	MT	3,000	
Europium	MT	18	
Ferro-niobium	MT	209	
Germanium Metal	kg	1,000	
HMX/RDX	Lbs	5,500,000	
Lithium Cobalt Oxide (LCO)	kg	600	
Lithium Nickel Cobalt Aluminum Oxide (LNCAO)	kg	2,160	
Mesocarbon Microbeads (MCMB)	kg	15,552	
Rare Earths	MT	416	(4)
Silicon Carbide Fibers	Lbs	875	
TATB (Triamino-Trinitrobenzene)	LB	48,000	
Tantalum	Lb Ta	33,990	
Tungsten-3 Rhenium Metal	kg	5,000	
Yttrium Oxide	MT	10	
Potential Conversions:			
Beryllium Metal	ST	2	

Footnote Key:

[1] Actual quantity will be limited to remaining inventory.

[2] Strategic and Critical Materials collected from E-Waste.

[3] This acquisition allows for use of non-stockpile materials in the production of material meeting modern specifications. U.S.C. 50 § 98 Sec. 5a(1) allows for replacement of stockpile materials with better quality material without specific legislated authority.

[4] Excludes acquisition of yttrium, dysprosium and europium as these rare earths were requested under separate legislation.

[FR Doc. 2016–20579 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

Healthcare Business Development Mission to China

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Replacement of trade mission statement.

SUMMARY: The United States Department of Commerce, International Trade Administration is replacing a notice published June 30, 2016, at 81 FR 42654, for its Healthcare Business Development Mission to China, to amend the dates of that mission to Oct. 16–21, 2016.

SUPPLEMENTARY INFORMATION: Replacement of Trade Mission Statement.

Background

The United States Department of Commerce, International Trade Administration is amending the dates of the Healthcare Business Development Mission to China to Oct. 16–21, 2016.

Replacement

Healthcare Business Development Mission to China, October 16–21, 2016

The United States Department of Commerce, International Trade Administration, is organizing an executive-led Healthcare Business Development Mission to China with an emphasis on the Sector. The mission will be led by the Deputy Secretary of Commerce with participation from U.S. Department of Health and Human Services to facilitate access to the appropriate Chinese government agencies.

The purpose of the mission is open access to Chinese government health officials and to introduce U.S. firms and trade associations to the Chinese Healthcare market as well as assist U.S. companies to find business partners and export their products and services to China. The mission is intended to include representatives from U.S. companies and U.S. trade associations with members that provide high end, innovative medical devices (especially imaging), healthcare technology equipment, innovative pharmaceuticals, hospital management or senior care management solutions, and medical education or training, hospital cooperation (*i.e.* management and education), as well as pharmaceuticals and senior care segments.

Healthcare is an important issue for both the China. Today, China's annual healthcare spending is about $590.2 billion or 5.7% of its GDP. Commerce and health are not mutually exclusive, as workers become ill and as the cost of healthcare and insurance increases there is a direct impact on business through the loss of worker productivity and skilled workers, and reduced output. With fewer healthy workers earning incomes, businesses will also be harmed by decreased size and purchasing power of consumers. Families and individuals will be burdened with the impact of reduced incomes, increased health costs, and increased likelihood of long term care. As the world's two largest economies, how the two sides approach healthcare in the future has the potential to impact global macro-economic stability and future economic growth.

In recent years China has prioritized the reform of its healthcare system, to ensure citizens have good quality and affordable care, especially given the trends in the population and the increase in various health issues. The aging population, chronic disease and lack of fitness for children create challenges and burdens on establishing an effective healthcare system. Incidence of non-communicable disease (NCDs) such as cardiovascular disease, cancer and diabetes has rapidly increased. Economic growth is also impeded because NCDs hit workers in their prime years of productivity—creating long term chronic conditions, withdrawal from the workforce, diminished family resources and early death. Tackling the prevalence and significance of NCDs is challenging. The causes are rooted in the universal trends of aging and rapid urbanization, demographic factors which will only increase in the future.

Facing similar challenges and possessing common goals to achieve a successful healthcare ecosystem, the United States and China are well positioned to share experiences and find solutions to existing problems through uniting government and private sector forces at the intersection of commerce and healthcare. Areas of mutual collaboration in the healthcare could focus on improving patient access and services delivery, as well as areas of cooperation to benefit the health and lives of the population. As China reforms its' healthcare system and endeavors to create an innovative medical device and pharmaceutical industry it risks the alienation of foreign firms in the market. This trade mission will offer U.S. firms not only the opportunity to market their products and services, but also to explore ways that U.S. industry can support China's efforts to reform their healthcare system through win-win bilateral healthcare cooperation.

The trade mission will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meetings with national and regional government officials, chambers of commerce, and business groups; and networking receptions for companies and trade associations representing companies interested in expansion into the Chinese markets. Meetings will be offered with government authorities (such as the National Health and Family Planning Commission, China Food and Drug Administration, Ministry of Human Resources and Social Services, and Ministry of Civil Affairs) that can address questions about policies, tariff rates, incentives, regulations, etc.

Schedule

Sunday, October 16

- Business Delegation arrives Beijing
- Business Delegation Meet and Greet/Icebreaker

Monday, October 17

- China Economic and Market briefing by U.S. Embassy staff on programs and opportunities in the Healthcare Sector
- Business Delegation Meeting with Vice Minister of National Health and Planning Commission
- Lunch hosted by Healthcare Association
- Business Delegation Meeting with Vice Minister of China Food and Drug Administration
- Business Delegation Meeting with Vice Minister of Ministry of Human Resources and Social Services

Tuesday, October 18

- Business Delegation Meeting with Vice Minister of Ministry of Civil Affairs

- Business Delegation Meeting with Commissioner of China Insurance Regulatory Commission
- Business Delegation Business-to-Business Meetings
- Mission Reception Hosted By U.S. Ambassador Baucus

Wednesday, October 19

- Airport Transfer to Beijing (PEK) Airport
- Morning Travel to Chongqing (post will recommend a specific flight, however flight is not included in the mission cost)
- Airport Transfer from Chongqing Airport
- Lunch Briefing by U.S. Consulate Chengdu staff on programs and opportunities in the Healthcare Sector
- Business Delegation Meeting with Chongqing Government Leadership
- Hospital Site Visit or Evening tourism event

Thursday, October 20

- Healthcare Association event (Healthcare Symposium, co-host with Chongqing Government)
- Business Delegation Networking Luncheon
- Business Delegation Business-to-Business Meetings
- CG-hosted Dinner for U.S. companies and USGs

Friday, October 21

- Business Delegation Meeting with Chongqing Health Bureau
- Lunch Wrap-up Meeting
- Afternoon—Delegates free to depart

Web site: Please visit our official mission Web site for more information: *http://2016.export.gov/china/healthcaretrademission/.*

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the DOC. All applicants will be evaluated on a staggered basis on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 18 firms and/or trade associations or organizations will be selected to participate in the mission from the applicant pool.

Fees and Expenses

After a trade association/organization has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Trade Mission will be $10,500 for a small or medium-sized enterprise (SME);[1] and $12,500 for a large firm and trade association/organization. The fee for each additional firm representative (large firm or SME/trade organization) is $3,500. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter and driver services can be arranged by the CS for additional cost. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

Application: All interested firms and associations may register via the following link: *ttps://emenuapps.ita.doc.gov/ePublic/TM/7R0L.*

Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation (except for transportation to and from meetings, and airport transfers during the mission), and air transportation. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. Electronic visas are required to participate on the mission, which are easily obtainable online. Applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than 5 August 2016. The U.S. Department of Commerce will review applications and make selection decisions on a staggered basis. Applications received after 5 August 2016, will be considered only if space and scheduling constraints permit.

FOR FURTHER INFORMATION CONTACT:

Mr. Dennis Simmons, Commercial Officer, U.S. Embassy Beijing | U.S. Department of Commerce, Beijing, China, Tel: + (86)1–8531–3445, *Dennis.Simmons@trade.gov*

Mr. Eric Hsu, Principal Commercial Officer, U.S. Consulate Chengdu | U.S. Department of Commerce, Chengdu, China, Tel: + (86) 28–8518–3992, *Eric.Hsu@trade.gov*

Ms. Yolinda Qu, International Trade Specialist, U.S. Department of Commerce, Office of China and Mongolia, Washington, DC, Tel: (202) 482–0007, *Yolinda.Qu@trade.gov*

Ms. Melissa Hill, Deputy Team Leader, Global China Team, U.S. Department of Commerce, U.S. Export Assistance Center—New York City, Tel: (212) 809–2675, *Melissa.Hill@trade.gov*

Frank Spector,

Senior Advisor for Trade Missions.

[FR Doc. 2016–20526 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Subsea & Onshore Technology Trade Mission to Rio de Janeiro, Brazil October 19–21, 2016; Cancellation

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice; cancellation.

SUMMARY: The United States Department of Commerce, International Trade Administration, published a notice in the **Federal Register** at 80 FR 76657 (December 10, 2015), regarding the Subsea & Onshore Technology Trade Mission to Rio de Janeiro, Brazil October 19–21, 2016. This mission has been cancelled due to scheduling difficulties.

SUPPLEMENTARY INFORMATION: Trade Mission Cancellation.

Background

Interested U.S. companies and trade associations/organizations providing oil and gas equipment, technology, or services as well as U.S. companies seeking to enter the Brazilian market for the first time are being encouraged to contact us for information on the Gold Key Service (GKS) — through the U.S.

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[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

Department of Commerce, U.S. Commercial Service.

CONTACT INFORMATION: Ethel M. Azueta Glen, International Trade Specialist, Trade Missions, U.S. Department of Commerce, Washington, DC 20230, Tel: 202–482–5388, Fax: 202–482–9000, *Ethel.Glen@trade.gov.*

Frank Spector,

Director, Trade Missions Program.

[FR Doc. 2016–20615 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–433–812, A–423–812, A–427–828, A–428–844, A–475–834, A–588–875, A–580–887, A–570–047, A–583–858]

Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective August 29, 2016.

FOR FURTHER INFORMATION CONTACT: Edythe Artman at (202) 482–3931 (Austria), Elizabeth Eastwood at (202) 482–3874 (Belgium and Italy), Terre Keaton Stefanova at (202) 482–1280 (France), Brandon Custard at (202) 482–1823 (Federal Republic of Germany (Germany)), Kabir Archuletta at (202) 482–2593 (Japan), Mike Heaney at (202) 482–4475 (Republic of Korea (Korea)), Irene Gorelik at (202) 482–6905 (the People's Republic of China (the PRC)), or Tyler Weinhold at (202) 482–1121 (Taiwan); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 2016, the Department of Commerce (the Department) initiated antidumping duty (AD) investigations concerning imports of certain carbon and alloy steel cut-to-length plate (CTL plate) from Austria, Belgium, Brazil, the People's Republic of China (PRC), France, the Federal Republic of Germany (Germany), Italy, Japan, the Republic of Korea (Korea), South Africa, Taiwan, and the Republic of Turkey.[1] Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1) state the Department will make a preliminary determination no later than 140 days after the date of the initiation. The current deadline for the preliminary determinations of these investigations is no later than September 15, 2016.

Postponement of Preliminary Determinations

On August 15, 2016, ArcelorMittal USA LLC, Nucor Corporation, and SSAB Enterprises, LLC (the petitioners) made a timely request, pursuant to 19 CFR 351.205(e), for postponement of the preliminary determinations in the investigations of CTL plate from Austria, Belgium, the PRC, France, Germany, Italy, Japan, Korea, and Taiwan, in order to provide the Department with sufficient time to develop the record in these proceedings through additional questionnaires, which the petitioners will in turn need time to analyze and comment on.[2] Because there are no compelling reasons to deny the petitioners' request, in accordance with section 733(c)(1)(A) of the Act, the Department is postponing the deadline for the preliminary determinations by 50 days.

For the reasons stated above, the Department, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations to no later than 190 days after the date on which the Department initiated these investigations. Therefore, the new deadline for the preliminary determinations is November 4, 2016. In accordance with section 735(a)(1) of the Act, the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 22, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–20694 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–DS–P

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[1] *See Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, South Africa, Taiwan, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 81 FR 27089 (May 5, 2016).

[2] *See* Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, China, France, Germany, Italy, Japan, Korea, and Taiwan—Petitioners' Request for an Extension of the Department's Preliminary Antidumping Duty Determinations, dated August 15, 2016.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Implementation of Vessel Speed Restrictions To Reduce the Threat of Ship Collisions With North Atlantic Right Whales

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 28, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Gregory Silber, Ph.D., Fishery Biologist, Office of Protected Resources, NMFS, (301) 427–8485.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a current information collection. On October 10, 2008, NMFS published a final rule promulgated under the Endangered Species Act implementing speed restrictions to reduce the incidence and severity of ship collisions with North Atlantic right whales (73 FR 60173). That final rule contained a collection-of-information requirement subject to the Paperwork Reduction act (PRA). Specifically, 50 CFR 224.105(c) requires a logbook entry to document that a deviation from the 10-knot speed limit was necessary for safe maneuverability under certain conditions.

In certain sea and weather conditions, a large ship may lose maneuverability at slow speeds. Therefore, under such conditions a ship, at the captain's discretion, may opt not to abide by the speed restrictions. If she/he chooses this option, she/he is required to make an entry into the ship's log, providing such information as: The reasons for the deviation, the speed at which the vessel is operated, the area, and the time and duration of such deviation.

II. Method of Collection

Typically, paper logbooks are not routinely submitted to a federal agency and remain entirely on individual vessels. However, logbooks may be requested by federal authorities if questions arise regarding the circumstances under which the deviation was invoked.

III. Data

OMB Control Number: 0648–0580.

Form Number: None.

Type of Review: Regular (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 250.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 24, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–20661 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE842

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting of the South Atlantic Fishery Management Council.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of the: Habitat Protection and Ecosystem-Based Management Committee; Information and Education Committee, Scientific and Statistical Committee (SSC) Selection Committee (Closed Session); Advisory Panel (AP) Selection Committee (Closed Session); Southeast Data, Assessment and Review (SEDAR) Committee; Snapper Grouper Committee; Joint Dolphin Wahoo, Snapper Grouper, and Mackerel Cobia Committees; Mackerel Cobia Committee; Law Enforcement Committee; Protected Resources Committee; Data Collection Committee; Highly Migratory Species (HMS) Committee; Executive Finance Committee; and a meeting of the Full Council. The Council will also hold a Parliamentary Practice Workshop, an informal Q&A session, and a formal public comment session. The Council will take action as necessary.

DATES: The Council meeting will be held from 8:30 a.m. on Monday, September 12, 2016 until 1 p.m. on Friday, September 16, 2016.

ADDRESSES:

Meeting address: The meeting will be held at the Marina Inn at Grande Dunes, 8121 Amalfi Place, Myrtle Beach, SC 29572; phone: (877) 403–7676 or (843) 913–1333; fax: (843) 913–1334.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.* Meeting information is available from the Council's Web site at: *http://safmc.net/Sept2016CouncilMeeting.*

SUPPLEMENTARY INFORMATION:

Public comment: Written comments may be directed to Gregg Waugh, Executive Director, South Atlantic Fishery Management Council (see **ADDRESSES**) or electronically via the Council's Web site at: *http://safmc.net/Sept2016_CouncilMeeting_CommentForm.* All comments must be received by September 5, 2016 in order to be considered by the Council prior to the meeting. For written comments received after the Monday before the meeting (after 9/5), individuals sending the comment must use the Council's online form available from the Web site. Comments will automatically be posted to the Web site and available for Council consideration. Comments received prior to noon on Thursday, September 15, 2016 will be a part of the meeting administrative record.

The items of discussion in the individual meeting agendas are as follows:

Parliamentary Practice Workshop, Monday, September 12, 2016, 8:30 a.m. Until 12 p.m.

Council members will participate in a workshop on Parliamentary practice with a focus on Robert's Rules and effective communication.

Habitat Protection and Ecosystem-Based Management Committee Meeting, Monday, September 12, 2016, 1:30 p.m. Until 4 p.m.

1. The Committee will receive a report from the Habitat Protection and Ecosystem-Based Management Advisory Panel and a summary of the Food Web & Connectivity and Climate Variability & Fisheries sections of the Council's Fishery Ecosystem Plan (FEP).
2. The Committee will review policy considerations supporting Policy Statement Development, Habitat and Ecosystem Tools, and model development. The Committee will provide recommendations as appropriate.

Information and Education Committee, Monday, September 12, 2016, 4 p.m. Until 5 p.m.

The Committee will receive an overview of the results of the Council's recent communications survey and an update on outreach activities. The Committee will provide guidance as needed.

SSC Selection Committee, Tuesday, September 13, 2016, 8:30 a.m. Until 9:30 a.m. (Closed Session)

The Committee will review applications for the SSC and provide recommendations for Council consideration.

AP Selection Committee, Tuesday, September 13, 2016, 9:30 a.m. Until 11 a.m. (Closed Session)

The Committee will review applications for open advisory panel seats and provide recommendations for Council consideration.

SEDAR Committee, Tuesday, September 13, 2016, 11 a.m. Until 12 p.m.

The Committee will receive updates on SEDAR projects and provide guidance on a Research Track Proposal and assessment priorities.

Informal Q & A, Tuesday, September 13, 2016, beginning at 5:30 p.m. with Sam Rauch, Deputy Assistant Administrator for Regulatory Programs NOAA Fisheries; Dr. Roy Crabtree, NOAA Fisheries Southeast Regional Administrator; Dr. Bonnie Ponwith, NOAA Fisheries Southeast Fisheries Science Center Director; and Dr. Michelle Duval, South Atlantic Fishery Management Council Chair.

Snapper Grouper Committee, Tuesday, September 13, 2016, 1:30 p.m. Until 5:30 p.m. and Wednesday, September 14, 2016, 8:30 a.m. Until 12 p.m.

1. The Committee will receive updates from NOAA Fisheries on the status of commercial catches versus quotas for species under Annual Catch Limits (ACLs) and the status of amendment currently under Secretarial review and take action as necessary.
2. The Committee will receive an overview of Snapper Grouper Amendment 37 addressing measures for *hogfish,* review comments on the Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS), modify the document as appropriate, and approve for Secretarial review.
3. The Committee will review Snapper Grouper Amendment 41 addressing management measures for *mutton snapper,* consider public hearing comments, modify the document as appropriate, and approve all actions.
4. The Committee will receive an overview of management options for *red snapper* to be addressed in Amendment 43, modify the document as necessary, approve for scoping, discuss and consider emergency action, and provide guidance to staff.
5. The Committee will review management options to include in a Vision Blueprint Recreational Amendment, discuss and provide guidance to staff as necessary.
6. The Committee will receive an overview of the assessment methodology used for *golden tilefish* in the Mid-Atlantic and the Council's rationale for not linking permits/catch history to endorsements, discuss changing the fishing year for the hook-and-line component of the commercial golden tilefish fishery and provide guidance as needed.
7. The Committee will discuss changing the mesh size of *black sea bass* pots and take action as necessary.
8. The Committee will receive an overview of the *Red Grouper* Stock Assessment and Fisheries Evaluation (SAFE) report, discuss and provide guidance to staff.

Joint Dolphin Wahoo, Snapper Grouper, and Mackerel Cobia Committees, Wednesday, September 14, 2016, 1:30 p.m. Until 3:30 p.m.

1. The Committees will receive status updates from NOAA Fisheries on commercial catches versus annual catch limits (ACLs) for *dolphin* and *wahoo* and amendments currently under Secretarial review.
2. The Committees will receive an overview of Amendment 10 to the Dolphin Wahoo Fishery Management Plan (FMP)/Amendment 44 to the Snapper Grouper FMP addressing allocations for *dolphin* and *yellowtail snapper,* review scoping comments, and provide direction to staff as appropriate.
3. The Committees will receive an overview of options for a Limited Entry program for federal For-Hire Permits in the Snapper Grouper, Coastal Migratory Pelagic, and Dolphin Wahoo fisheries in the South Atlantic/Atlantic. The Committees will discuss options and provide direction to staff.

Mackerel Cobia Committee, Wednesday, September 14, 2016: 3:30 p.m. Until 5:30 p.m. and Thursday, September 15, 2016: 8:30 a.m. Until 9:30 a.m.

1. The Committee will receive a report from NOAA Fisheries on commercial catches versus ACLs and the status of amendments under review, and an explanation of what happened with the *cobia* commercial overage in 2015. The Committee will discuss and take action as appropriate.
2. The Committee will receive reports from the June/August 2016 Gulf Council meetings, the August 2015 Atlantic States Marine Fisheries Commission (ASMFC) meeting, and the August 2016 Mid-Atlantic Council meeting, discuss and take action as appropriate.
3. The Committee will receive a presentation on the South Carolina Distinct Population Segment of Atlantic *cobia,* discuss and take action as appropriate.
4. The Committee will receive an overview of Framework Amendment 4 to the Coastal Migratory Pelagic FMP addressing management measures for Atlantic *cobia,* review public hearings comment, modify the document as needed, select preferred alternatives, and approve the document for Secretarial review. The Committee will also provide direction to staff on any emergency action and addressing any change to the fishing year for Atlantic *cobia.*
5. The Committee will review Framework Amendment 5 to the Coastal Migratory Pelagic FMP that would remove current restrictions on commercial *king mackerel* and *Spanish mackerel* permits that prohibit the retention of bag limit *king mackerel* and *Spanish mackerel* on recreational (non-commercial and non-charter/headboat) trips on federally permitted vessels when commercial harvest is closed for the Gulf of Mexico and South Atlantic/Mid-Atlantic regions. The Committee will review public input, modify the document as needed, select preferred alternatives, and approve for Secretarial review.
6. The Committee will receive an overview of Amendment 29 to the Coastal Migratory Pelagic FMP to address allocations of Gulf migratory group *king mackerel,* select preferred alternatives, and modify as necessary.

Formal Public Comment, Wednesday, September 14, 2016, 5:30 p.m.—Public comment will be accepted on items on the Council agenda. Comment will be accepted first on items before the Council for Secretarial approval: (1) Snapper Grouper Amendment 37 (*hogfish*); (2) Coastal Migratory Pelagics Framework Amendment 4 (Atlantic *cobia*); and (3) Coastal Migratory Pelagics Framework Amendment 5 (Modify permit restrictions). The Council Chair, based on the number of individuals wishing to comment, will determine the amount of time provided to each commenter.

Law Enforcement Committee, Thursday, September 15, 2016, 9:30 a.m. Until 10:30 a.m.

The Committee will receive a summary report from the Joint meeting of the Law Enforcement Committee and Advisory Panel and provide recommendations as appropriate.

Protected Resources Committee, Thursday, September 15, 2016, 10:30 a.m. Until 11:30 a.m.

The Committee will receive an update from NOAA Fisheries on Protected Resources issues including the Biological Opinion for the Snapper Grouper fishery and a 12-month determination for *Nassau grouper.* The Committee will also receive an update from the U.S. Fish and Wildlife Service/ASMFC.

Data Collection Committee, Thursday, September 15, 2016, 1 p.m. Until 4 p.m.

1. The Committee will receive an update from NOAA Fisheries on the status of work relative to Comprehensive Ecosystem-Based Amendment 3 (CE–BA 3) addressing bycatch and the final Standardized Bycatch Reporting Methodology (SBRM) rule, discuss the amendment and provide direction to staff.
2. The Committee will receive an update on the status of the Implementation Plan and cost analyses for commercial logbook electronic reporting, discuss and provide guidance to staff.
3. The Committee will also receive an overview of the Atlantic For-Hire Reporting Amendment, an update on the Council's for-hire pilot project, a report from the South Carolina Department of Natural Resources on their for-hire logbook validation and verification project, and provide guidance as appropriate.
4. The Committee will receive an update on the Council's Citizen Science Program, discuss, and take action as appropriate.

Highly Migratory Species (HMS) Committee, Thursday, September 15, 2016, 4 p.m. Until 5 p.m.

1. The Committee will receive an update on the HMS Advisory Panel meeting, discuss and take action as appropriate.
2. The Committee will receive a presentation from NOAA Fisheries HMS on the Proposed Rule/Environmental Assessment (EA) for non-blacknose small coastal shark and blacknose shark fisheries and draft EA for HMS Amendment 10 addressing Essential Fish Habitat and Habitat Areas of Particular Concern, discuss and take action as necessary.

Executive Finance Committee, Thursday, September 15, 2016, 5 p.m. Until 6 p.m.

1. The Committee will receive an update on the status of expenditures for Calendar Year (CY) 2016; review, modify, and approve the Council Follow-up and work priorities; and provide recommendations as appropriate.
2. The Committee will discuss standards and procedures for participating in Council webinar meetings and for accepting public comment, review the Council/NOAA Fisheries/NOAA Regional Operations Agreement, and take action as appropriate.

Council Session: Friday, September 16, 2016, 8:30 a.m. Until 1 p.m.

8:30–8:45 a.m.: Call the meeting to order, swearing in of new Council members, election of chair and vice-chair, adopt the agenda, and approve the June 2016 meeting minutes.

8:45–9:30 a.m.: The Council will receive a report from the Snapper Grouper Committee and approve/disapprove Snapper Grouper Amendment 37 (*hogfish*) for Secretarial review and approve Snapper Grouper Amendment 43 (*red snapper*) for scoping. The Council will consider other Committee recommendations and take action as appropriate.

9:30–10:00 a.m.: The Council will receive a report from the Mackerel Cobia Committee, approve/disapprove Coastal Migratory Pelagics Framework Amendment 4 (Atlantic *cobia*) for Secretarial review and approve/disapprove any cobia emergency action, approve/disapprove Framework Amendment 5 (Modifying permit restrictions) for Secretarial review, consider other Committee recommendations, and take action as appropriate.

10 a.m.–10:10 a.m.: The Council will receive a report from the HMS Committee, consider recommendations, and take action as appropriate.

10:10–10:30 a.m.: The Council will receive a report from the Joint Dolphin Wahoo, Snapper Grouper, and Mackerel Cobia Committees, consider recommendations, and take action as appropriate.

10:30–10:40 a.m.: The Council will receive a report from the Protected Resources Committee, consider recommendations and take action as appropriate.

10:40–10:50 a.m.: The Council will receive a report from the Advisory Panel Selection Committee, consider Committee recommendations, and take action as appropriate.

10:50–11:00 a.m.: The Council will receive a report from the SSC Selection Committee, consider Committee recommendations, and take action as appropriate.

11:00– 11:10 a.m.: The Council will receive a report from the SEDAR Committee, consider committee recommendations, and take action as appropriate.

11:10–11:20 a.m.: The Council will receive a report from the Data Collection Committee, consider committee recommendations, and take action as appropriate.

11:20–11:25 a.m.: The Council will receive a report from the Habitat and Ecosystem-Based Management Committee, consider any committee recommendations, and take action as appropriate.

11:25–11:30 a.m.: The Council will receive a report from the Law Enforcement Committee, consider recommendations, and take action as appropriate.

11:30–11:35 a.m.: The Council will receive a report from the Information and Education Committee, consider recommendations, and take action as appropriate.

11:35–11:45 a.m.: The Council will receive a report from the Executive Finance Committee, approve the Council Follow-Up and Priorities, approve the Council/NOAA Fisheries/NOAA Regional Operations Agreement, consider other Committee recommendations, and take action as appropriate.

11:45–1 p.m.: The Council will receive status reports from NOAA Fisheries Southeast Regional Office and the Southeast Fisheries Science Center; review and develop recommendations on Experimental Fishing Permits as necessary; receive agency and liaison reports; and discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 24, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–20643 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE845

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, September 14, 2016 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740; phone: (774) 634–2000; fax: (774) 634–2001.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review preliminary 2016 scallop survey results and discuss initial recommendations from the Scallop Plan Development Team (PDT) for FY 2017 and FY 2018 (default) fishery specifications (Framework 28). They plan to review and provide input on Framework 28 management measures; which include: (1) Restricting the possession of shell stock inshore of the days-at-sea demarcation line north of 42°20′ N.; (2) modifying the process for distributing scallop fishery projected landing (ACL flowchart); (3) modifying the Closed Area I AA boundary consistent with potential changes to habitat and groundfish mortality closures. They will also review Advisory Panel recommendations from previous day. Other business will be discussed as necessary. The Committee will continue in a closed door session to review applications to the Advisory Panel.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 24, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–20689 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE843

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, September 12, 2016 at 10 a.m.

ADDRESSES: The meeting will be held at the Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740; phone: (774) 634–2000; fax: (774) 634–2001.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will receive a summary of recommendations from the Groundfish Advisory Panel, which met on August 30. They will discuss Framework Adjustment 56, particularly the specifications and management measures, (1) draft alternatives and make recommendations to the Council, (2) they will receive a Plan Development Team (PDT) report that summarizes Atlantic halibut management and recent catch and effort for the directed fishery in the State of Maine, (3) and review a draft letter to the Secretary of Commerce/State of Maine on the halibut issue and make recommendations to the Council. They also plan to discuss the Groundfish Monitoring Action, specifically a progress report from the PDT on the white paper on monitoring strategies, and develop recommendations to the Council. The Committee will discuss possible groundfish priorities for 2017, and develop initial recommendations to the Council. Other business will be discussed as necessary. The Committee will continue in a closed door session to review applications to the Recreational Advisory Panel and Groundfish Advisory Panel.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 24, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–20644 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE766

Marine Mammals; File Nos. 19669 and 20532

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of applications.

SUMMARY: Notice is hereby given that the Chicago Zoological Society [Michael J. Adkesson, D.V.M., Responsible Party], 3300 South Golf Rd., Brookfield, Illinois 60513 (File No. 19669), and Stephen John Trumble, Ph.D., Baylor University, 101 Bagby Ave., Waco, TX 76706 (File No. 20532), have applied in due form for permits to import, export, and receive marine mammal parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before September 28, 2016.

ADDRESSES: The applications and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov*, and then selecting File No. 19669 or 20532 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on either of these applications should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 19669 or 20532 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

File No. 19669: The applicant proposes to import and export biological samples taken for scientific research that continues the long term evaluation and monitoring of South American fur seal (*Arctocephalus australis*) and South American sea lion (*Otaria flavescens*) population health at the Punta San Juan reserve and marine protected area in Peru. The requested duration of the permit is 5 years.

File No. 20532: The applicant proposes to import and export biological samples from museum holdings and stranded animals worldwide for scientific research to chronologically profile anthropogenic and physiological data including hormones and pesticides to record exposure and stress. Earwax and baleen samples will be from blue (*Balaenoptera musculus*), gray (*Eschrichtius robustus*), fin (*Balaenoptera physalus*), minke (*Balaenoptera acutorostrata*), bowhead whales (*Balaena mysticetus*), and humpback whales (*Megaptera novaeangliae*), and earwax only from sperm whales (*Physeter macrocephalus*). Earwax and baleen may also be obtained from subsistence hunted bowhead whales in Alaska. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 24, 2016.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–20613 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE808

Notice of availability of the Final Restoration Plan and Programmatic Environmental Impact Statement for Restoration Resulting From the Kalamazoo River Natural Resource Damage Assessment Related to the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a Final Restoration Plan and Programmatic Environmental Impact Statement.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) and the U.S. Fish and Wildlife Service (USFWS) announce the availability of the *Final Restoration Plan and Programmatic Environmental Impact Statement for Restoration Resulting from the Kalamazoo River Natural Resource Damage Assessment* (RP/PEIS). The purpose of the RP/PEIS is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of implementing the alternative programmatic approaches to restoration in the Kalamazoo River watershed. USFWS, NOAA, and the State of Michigan (collectively referred to as the "Trustees") also present their plan for restoration projects authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), to compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). The RP/PEIS identifies and evaluates the environmental impacts associated with restoration actions that may be implemented to compensate for injuries to natural resources and associated services.

ADDRESSES: Obtaining documents: You may download the RP/PEIS at *https://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver/index.html.* Alternatively, you may request a CD of the document from Lisa Williams, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road East Lansing, MI 48823.

FOR FURTHER INFORMATION CONTACT: Lisa Williams, USFWS, by email at *lisa_williams@fws.gov* or by phone at (517) 351–8324.

SUPPLEMENTARY INFORMATION: Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*, parties responsible for releasing hazardous substances into the environment are liable both for the costs of responding to the release (by cleaning up, containing, or otherwise remediating the release) and for damages arising from injuries to publicly owned or managed natural resources resulting from the release. CERCLA's Natural Resource Damage Assessment (NRDA) regulations (43 CFR 11) prescribe the process of assessing the nature and extent of the resulting injury, destruction, or loss of natural resources and the services they provide. Carrying out of the NRDA process also includes determining the compensation required to make the public whole for such injuries, destruction, or loss. CERCLA authorizes certain Federal and State agencies and Indian tribes to act on behalf of the public as Trustees for affected natural resources. Under CERCLA, these agencies and tribes are authorized to assess natural resource injuries and to seek compensation, referred to as damages, from responsible parties, including the costs of performing the damage assessment. The Trustees are required to use recovered damages for the following purposes only: To restore, replace, or acquire the equivalent of the injured or lost resources and services.

In the Draft RP/PEIS, the Trustees described restoration projects that could compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). These include both general types of restoration projects as well as two specific projects to restore aquatic connectivity on the Kalamazoo River by removing dams in and near Otsego, Michigan.

The notice of availability of the Draft RP/PEIS was published in the **Federal Register** on September 14, 2015 (80 FR 55144). The Draft RP/PEIS presented alternative programmatic approaches to restoration in the Kalamazoo River watershed and two specific projects as just mentioned, as well as an assessment of impacts of implementing the restoration approaches and projects. The Trustees provided the public with 45 days to review and comment on the Draft RP/PEIS. The Trustees also held a public meeting at the Kalamazoo Nature Center on September 15, 2015, to facilitate public understanding of the document and provide opportunity for public comment. The Trustees considered the public comments received, which informed the Trustees' analysis of programmatic alternatives in the Final RP/PEIS. A summary of the public comments received and the Trustees' responses to those comments are addressed in Chapter 7 with details provided in Appendix D of the Final RP/PEIS.

The Trustees prepared this RP/PEIS for restoration in the Kalamazoo River watershed pursuant to both CERCLA NRDA regulations and National Environmental Policy Act (NEPA) regulations. The NEPA process consists of a set of fundamental objectives that include interagency coordination and cooperation, and public participation in the planning and development of projects. NEPA requires Federal agencies to conduct environmental reviews of proposed actions to consider the potential impacts on the environment. The Final RP/PEIS describes restoration projects that could compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site).

Industrial activities in the Kalamazoo area have released PCBs into the environment. Recycling of carbonless copy paper at several area paper mills was the primary source of PCB release. Waste from the recycling of such paper conducted at Kalamazoo-area paper mills also contained PCBs, and the waste was disposed of by several methods that resulted in releases of PCBs into the environment. These PCBs have contaminated sediments, the water column, and biota in and adjacent to downstream sections of Portage Creek, the Kalamazoo River, and Lake Michigan. Based on the risks that PCBs pose to the environment and to human health, the U.S. Environmental Protection Agency (EPA) listed the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site on the National Priorities List on August 30, 1990.

PCBs are listed as hazardous substances under CERCLA. EPA and the Michigan Department of Environmental Quality currently describe the Site being addressed by the Superfund remedial investigation as including: (1) Five disposal areas and six paper mill properties; (2) a 3-mile stretch of Portage Creek from Cork Street in the City of Kalamazoo to where the creek meets the Kalamazoo River; and (3) an approximately 80-mile stretch of the Kalamazoo River, from Morrow Dam to Lake Michigan, with adjacent floodplains, wetlands, and in-stream sediments. As defined in the Stage 1 Assessment Report (MDEQ et al. 2005; available at *http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver*), the Trustees are using the term Kalamazoo River Environment (KRE) to represent the entire natural resource damage assessment area. The KRE encompasses the area being addressed by the Superfund remedial investigations for the site's operable units, along with any area where hazardous substances released at or from the Superfund site have come to be located, and areas where natural resources or the services they provide may have been affected by the Site-related hazardous substances releases (MDEQ et al. 2005). The Trustees expect to have opportunities to settle natural resource damage claims with willing parties. The RP/PEIS provides an ecological framework, with public input, to maximize the benefits of specific restoration projects to the affected resources in the KRE that might be included in or funded by future settlements. The RP/PEIS provides criteria and guidance for Trustees to use in selecting feasible restoration projects.

Next Steps

In accordance with NEPA, a Federal agency must prepare a concise public Record of Decision (ROD) at the time the agency makes a decision in cases involving an EIS (40 CFR 1505.2). The Trustees will issue a ROD pursuant to NEPA regulations at 40 CFR 1505.2. Accordingly, the ROD for the Final RP/PEIS will provide and explain the Trustees' decisions regarding the selection of a preferred alternative. The Trustees will issue the ROD no earlier than 30 days after the Environmental Protection Agency publishes a notice in the **Federal Register** announcing the availability of the Final RP/PEIS (40 CFR 1506.10).

Administrative Record

In compliance with 40 CFR 1505 *et seq.*, the Trustees will include in the NRDA Administrative Record (Record) documents that the Trustees relied upon during the development of the Final RP/PEIS. The hard copy Record is on file at MDEQ (contact Judith Alfano at (517) 284–5061 or *alfanoj@michigan.gov*), and selected documents from the Record are also accessible at the following Web site: *http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver.*

Dated: August 24, 2016.

Carrie Selberg,

Acting Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2016–20723 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE815

Marine Mammals; File Nos. 19315 and 19674

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of applications.

SUMMARY: Notice is hereby given that the Center for Coastal Studies, Right Whale Ecology Program, 5 Holway Avenue, P.O. Box 1036, Provincetown, MA 02657 [Responsible Party: Richard Delaney] and Scott Kraus, Ph.D., New England Aquarium, Edgerton Research Lab, Central Wharf, Boston MA 02110 have applied in due form for a permit to take 22 species of cetaceans and pinnipeds, including endangered North Atlantic right (*Eubalaena glacialis*), humpback (*Megaptera novaeangliae*), fin (*Balaenoptera physalus*), blue (*B. musculus*), sei (*B. borealis*), bowhead (*Balaena mysticetus*), and sperm (*Physeter macrocephalus*) whales, for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before September 28, 2016.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 19315 (Center for Coastal Studies) or File No. 19674 (Kraus) from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Sara Young, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

File No. 19315: The applicant requests a five-year scientific research permit to monitor right whale demographics, life history traits, habitat use, and behavior in Atlantic coastal waters from the Mid-Atlantic Bight to the Gulf of Maine. Annually, up to 1,500 right whales would be approached by aircraft for photo-identification and behavioral observation; up to 700 right whales would be approached by vessel for these activities and prey mapping; and up to 10 whales would be suction-cup tagged. Opportunistic sighting data and photographs would be collected for bowhead whales and up to 20 other cetacean and pinniped species and unidentified dolphins and whales could be incidentally harassed and photographed annually during surveys.

File No. 19674: Dr. Kraus requests a five-year scientific research permit to assess, quantify, and track trends in the demographic characteristics of right whales, and to identify, quantify and monitor the long term trends in anthropogenic impacts on the species. Up to 500 right whales would be approached annually by vessel or aircraft for photo-identification, behavioral observation, and blow and fecal sampling; up to 50 additional non-neonate whales would be photographed and biopsy sampled annually. Biological samples from up to 50 whales could be received, imported or exported annually. During vessel surveys up to 20 animals of each species of humpback whales, fin whales, harbor porpoise (*Phocoena phocoena*) and Atlantic white-sided dolphins (*Lagenorhynchus acutus*) could be incidentally harassed annually.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 18, 2016.

Nicole R. Le Boeuf,

Acting Deputy Director, Office of Protected Resources National Marine Fisheries Service.

[FR Doc. 2016–20597 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE847

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold public meetings.

DATES: The Pacific Council and its advisory entities will meet September 12–20, 2016. The Pacific Council meeting will begin on Thursday, September 15, 2016 at 10 a.m., reconvening at 8 a.m. each day through Tuesday, September 20, 2016. All meetings are open to the public, except a closed session will be held from 10 a.m. to 11 a.m., Thursday, September 15 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Council and its advisory entities will be held at the Riverside Hotel, 2900 Chinden Blvd., Boise, ID 83714; telephone: (208) 343–1871.

Council address: Pacific Fishery Management Council, 7700 NE

Ambassador Place, Suite 101, Portland, OR 97220. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll-free; or access the Pacific Council Web site, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The September 15–20, 2016 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 11 a.m. Pacific Time (PT) Thursday, September 15, 2016 and continue at 8 a.m. daily through Tuesday, September 20, 2016. Broadcasts end daily at 6 p.m. PT or when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion is listen-only; you will be unable to speak to the Pacific Council via the broadcast. To access the meeting online please use the following link: *http://www.gotomeeting.com/online/webinar/join-webinar* and enter the September Webinar ID, 132–423–419 and your email address. You can attend the webinar online using a computer, tablet, or smart phone, using the GoToMeeting application. It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio portion only of the meeting. The audio portion may be attended using a telephone by dialing the toll number 1–213–929–4212 (not a toll-free number), audio access code 447–457–678, and enter the audio pin shown after joining the webinar.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as "Final Action" refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, advisory entity meeting times, and meeting rooms are described in Agenda Item A.5, Proposed Council Meeting Agenda, and will be in the advance September 2016 briefing materials and posted on the Council Web site at *www.pcouncil.org.*

A. Call to Order
  1. Opening Remarks
  2. Council Member Appointments
  3. Roll Call
  4. Executive Director's Report
  5. Approve Agenda

B. Open Comment Period
  1. Comments on Non-Agenda Items

C. Habitat
  1. Current Habitat Issues

D. Ecosystem-Based Management
  1. Fishery Ecosystem Plan Coordinated Ecosystem Indicator Review Initiative
  2. Ecosystem-Based Fishery Management Roadmap

E. Coastal Pelagic Species Management
  1. Minimum Stock Size Thresholds Report
  2. Stock Assessment Workshop Report
  3. Anchovy Management Update
  4. Artisanal Fishery Management Issue Scoping

F. Groundfish Management
  1. National Marine Fisheries Service Report
  2. Methodology Review Preliminary Topic Selection
  3. 2017–18 Harvest Specifications and Management Measures Rulemaking Update and Clarifications
  4. Scoping of Trawl Sector Quota Pounds Trading
  5. 5-Year Catch Share Program and Intersector Allocation Review Update
  6. Inseason Management Final Action
  7. Amendment 21 At-Sea Sector Set-Asides Final Action
  8. Mid-Biennium Annual Catch Limit Adjustment and Rebuilding Harvest Rate Adjustment Policies

G. Administrative Matters
  1. Legislative Matters
  2. West Coast Regional Operating Agreement Initial Review
  3. Fiscal Matters
  4. Approval of Council Meeting Record
  5. Membership Appointments and Council Operating Procedures
  6. Future Council Meeting Agenda and Workload Planning

H. Salmon Management
  1. Salmon Methodology Review
  2. Sacramento River Winter Chinook Harvest Control Rule Update

I. Pacific Halibut Management
  1. 2017 Catch Sharing Plan and Annual Regulation Changes

J. Highly Migratory Species Management
  1. Update on International Issues
  2. Exempted Fishing Permits
  3. Biennial Harvest Specifications and Management Measures
  4. Deep-Set Buoy Gear Exempted Fishing Permit Criteria to Advance Gear Authorization
  5. Federal Drift Gillnet Permit Amendment

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Council agenda for this meeting, and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Council Web site *http://www.pcouncil.org/council-operations/council-meetings/current-briefing-book/* no later than Wednesday, August 31, 2016.

SCHEDULE OF ANCILLARY MEETINGS

Day 1—Monday, September 12, 2016	
SSC Ecosystem Subcommittee	9 a.m.
Day 2—Tuesday, September 13, 2016	
SSC Ecosystem Subcommittee	9 a.m.
Ecosystem Advisory Subpanel	1 p.m.
Ecosystem Workgroup	1 p.m.
Day 3—Wednesday, September 14, 2016	
Coastal Species Advisory Subpanel	8 a.m.
Coastal Species Management Team	8 a.m.
Groundfish Management Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Habitat Committee	8:30 a.m.
Ecosystem Advisory Subpanel	9 a.m.
Ecosystem Workgroup	9 a.m.
Legislative Committee	1 p.m.
Budget Committee	2:30 p.m.
Day 4—Thursday, September 15, 2016	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Coastal Pelagic Species Advisory Subpanel	8 a.m.
Coastal Pelagic Species Management Team	8 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Salmon Advisory Subpanel	8 a.m.
Scientific and Statistical Committee	8 a.m.
Enforcement Consultants	3 p.m.
Day 5—Friday, September 16, 2016	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Salmon Advisory Subpanel	8 a.m.
Sacramento River Winter Chinook Workgroup	8 a.m.
Enforcement Consultants	Ad hoc
Day 6—Saturday, September 17, 2016	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.

SCHEDULE OF ANCILLARY MEETINGS—Continued

Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Highly Migratory Species Advisory Subpanel	8 a.m.
Highly Migratory Species Management Team	8 a.m.
Enforcement Consultants	Ad hoc
Day 7—Sunday, September 18, 2016	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Highly Migratory Species Advisory Subpanel	8 a.m.
Highly Migratory Species Management Team	8 a.m.
Enforcement Consultants	Ad hoc
Day 8—Monday, September 19, 2016	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Highly Migratory Species Advisory Subpanel	8 a.m.
Highly Migratory Species Management Team	8 a.m.
Enforcement Consultants	Ad hoc
Day 9—Tuesday, September 20, 2016	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: August 24, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–20646 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Ocean Exploration Advisory Board (OEAB)

AGENCY: Office of Ocean Exploration and Research (OER) National Oceanic and Atmospheric Administration (NOAA) Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ocean Exploration Advisory Board (OEAB). OEAB members will discuss and provide advice on Federal ocean exploration programs, with a particular emphasis on National Oceanic and Atmospheric Administration (NOAA) Office of Ocean Exploration and Research (OER) activities; federal ocean exploration partners, including the Cooperative Institute for Ocean Exploration, Research, and Technology, the Office of Naval Research, and NOAA's Integrated Ocean Observing System program; advising NOAA on out-year budget development with respect to ocean exploration; and other matters as described in the agenda found on the OEAB Web site at *http://oeab.noaa.gov.*

TIME AND DATES: The announced meeting is scheduled for Tuesday, September 13, 2016 from 8:30 a.m.–5:30 p.m. EDT, and Wednesday, September 14, 2016 from 8:30 a.m.–4:30 p.m. EDT.

ADDRESSES: The meeting will be held at the Boeing Company, 929 Long Bridge Drive, Arlington, VA 22202.

STATUS: The meeting will be open to the public with a 30 minute public comment period on Tuesday, September 13, 2016 from 2:45 p.m. to 3:15 p.m. EDT (please check the agenda on the Web site to confirm the time). The public may listen to the meeting and provide comments during the public comment period via teleconference. Dial-in information may be found on the meeting agenda posted to the OEAB Web site.

The OEAB expects that public statements at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to three minutes. The Designated Federal Officer must receive written comments by September 1, 2016 to provide sufficient time for OEAB review. Written comments received after September 1, 2016 will be distributed to the OEAB but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

SPECIAL ACCOMODATIONS: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to David McKinnie, Designated Federal Officer (see below) by September 1, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. David McKinnie, Designated Federal Officer, Ocean Exploration Advisory Board, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115, (206) 526–6950.

SUPPLEMENTARY INFORMATION: NOAA established the OEAB under the Federal Advisory Committee Act (FACA) and legislation that gives the agency statutory authority to operate an ocean exploration program and to coordinate a national program of ocean exploration. The OEAB advises NOAA leadership on strategic planning, exploration priorities, competitive ocean exploration grant programs and other matters as the NOAA Administrator requests.

OEAB members represent government agencies, the private sector, academic institutions, and not-for-profit institutions involved in all facets of ocean exploration—from advanced technology to citizen exploration.

In addition to advising NOAA leadership, NOAA expects the OEAB to help to define and develop a national program of ocean exploration—a network of stakeholders and partnerships advancing national priorities for ocean exploration.

Dated: August 24, 2016.

Jason Donaldson,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2016–20708 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE844

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, September 13, 2016 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740; phone: (774) 634–2000; fax: (774) 634–2001.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will review preliminary 2016 scallop survey results and discuss initial recommendations from the Scallop Plan Development Team (PDT) for FY 2017 and FY 2018 (default) fishery specifications (Framework 28). They plan to review and provide input on Framework 28 management measures; which include: (1) Restricting the possession of shell stock inshore of the days-at-sea demarcation line north of 42°20′ N; (2) Modifying the process for distributing scallop fishery projected landing (ACL flowchart); (3) Modifying the Closed Area I AA boundary consistent with potential changes to habitat and groundfish mortality closures. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 24, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–20688 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE846

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The Scientific and Statistical Committee (SSC) of the Mid-Atlantic Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on Wednesday, September 14, 2016, beginning at 10 a.m. and conclude by 5 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will at the Royal Sonesta Harbor Court, 550 Light Street, Baltimore, MD 21202; telephone: (410) 234–0550.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their Web site at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: Agenda items to be discussed at the SSC meeting include: Review fishery performance report and multi-year ABC specifications for spiny dogfish; and discuss MAFMC risk policy and assignment of CVs for Mid-Atlantic stock assessments.

Dated: August 24, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–20690 Filed 8–26–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE848

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Advisory Panel will meet to provide input on an Amendment that could affect the longfin and *Illex* squid fisheries.

DATES: The meeting will be held Tuesday, September 13, 2016, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Radisson Hotel Providence Airport, 2081 Post Road Warwick, RI 02886; telephone: (401) 739–3000.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* will also have details on the proposed agenda and briefing materials.

SUPPLEMENTARY INFORMATION: The Advisory Panel will provide input on an Amendment to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The amendment could reduce the capacities of the longfin squid and *Illex* squid fleets. The Council is considering this action because of concern that activation of latent capacity in the squid fisheries could lead to excessive fishing effort and increased catch of non-target species. Several other issues are being considered as well: (1) New permits for Maine/northern states; (2) re-evaluation of longfin squid trimesters; and (3) longfin squid buffer zones (*e.g.* 10 miles) beyond state waters in the area south of Martha's Vineyard/Nantucket.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: August 24, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–20692 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE773

Marine Mammals; File No. 20341

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Craig Matkin, North Gulf Oceanic Society, 3430 Main St., Suite B1, Homer, Alaska 99603, has applied in due form for a permit to conduct research on cetaceans.

DATES: Written, telefaxed, or email comments must be received on or before September 28, 2016.

ADDRESSES: The application and related documents are available for review by selecting “Records Open for Public Comment” from the “Features” box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20341 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to continue a long-term research study of killer whales (*Orcinus orca*) in Alaskan waters, focusing on population abundance, social structure, feeding behavior, and movement patterns. Other non-ESA listed cetacean species would be studied along the North Gulf Coast of Alaska in relation to U.S. Navy testing activities. Research methods include photo-identification, passive acoustics, collection of prey remains, morphometrics, biopsy sampling, and deployment of both suction cup and dart tags. Up to 2,000 killer whales may be photographed annually, with smaller numbers of whales receiving tags or biopsy sampled. Other species to be studied include gray whales (*Eschrichtius robustus*), minke whales (*Balaenoptera acutorostrata*), Baird’s beaked whales (*Berardius bairdii*), Cuvier’s beaked whales (*Ziphius cavirostris*), and Stejneger’s beaked whales (*Mesoplodon stenergeri*). Prey remains may be collected from up to 25 each of the following carcasses: Minke whales, gray whale, harbor porpoise (*Phocoena phocoena*), Dall’s porpoise (*Phocoenoides dalli*), harbor seals (*Phoca vitulina*), Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), and Northern fur seals (*Callorhinus ursinus*). The permit would be valid for five years from the date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 24, 2016.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–20614 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Advisory Committee for the Sustained National Climate Assessment (SNCA)

AGENCY: Office of Oceanic and Atmospheric Research (OAR) National Oceanic and Atmospheric Administration (NOAA) Department of Commerce (DOC)

ACTION: Notice of Federal Advisory Committee open meeting.

SUMMARY: The Advisory Committee for the Sustained National Climate Assessment (SNCA) was established by a Decision Memorandum, dated August 20, 2015. The Committee’s mission is to provide advice on sustained National Climate Assessment activities and products to the Under Secretary of Commerce for Oceans and Atmosphere (Under Secretary), who will forward the advice to the Director of the Office of Science Technology Policy (OSTP). The Committee will advise on the engagement of stakeholders and on sustained assessment activities and the quadrennial National Climate Assessment (NCA4) report.

Time and Date: (1) *Public Hearing.* The meeting will be held on September 13, 2016 from 12:30 p.m. to 5:00 p.m., September 14, 2016 from 8:00 a.m. to 5:00 p.m., and September 15, 2016 from 8:00 a.m. to 12:00 p.m. There will be a 30-minute public comment period on September 13 from 4:25 to 4:55 p.m. These times and the agenda topics described below are subject to change. Please refer to the Web page *http://snca advisorycommittee.noaa.gov/Meetings.aspx* for the most up-to-date meeting times and agenda.

(2) *Written Public Comment.* Written public comment regarding Advisory Committee for the Sustained National Climate Assessment meeting materials can be submitted to the Advisory Committee Executive Director’s Office by September 6, 2016, to provide sufficient time for Advisory Committee review. Written comments received by the Executive Director after September 6, 2016, will be distributed to the Advisory Committee and may not be reviewed prior to the meeting date.

Place: The meeting will be held at Department of Commerce (DOC), Herbert C. Hoover Building (HCHB) Room 48019, 1401 Constitution Avenue NW., Washington, DC. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

SUPPLEMENTARY INFORMATION:

Meeting Accessibility: Pursuant to 41 CFR 102–3.140 through 102–3.165 and the availability of space, the meeting scheduled for on September 13, 2016 from 12:30 p.m. to 5:00 p.m., September 14, 2016 from 8:00 a.m. to 5:00 p.m., and September 15, 2016 from 8:00 a.m. to 12:00 p.m. at DOC is open to the public

New Visitor Access Requirement: For participants attending in person, please note that federal agencies, including DOC, can only accept a non-expired state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (*Pub. L. 109–13*), or by a state that has an extension for REAL ID compliance. DOC currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. Driver's licenses from six states and territories are not compliant and will not be accepted as identification: Minnesota, Illinois, Missouri, Washington, and American Samoa. In addition, DOC will accept only enhanced driver's licenses (identified by the American Flag on the face of the card) from two states: Minnesota and Washington State. For a list of alternative identification, please visit: *http://www.nist.gov/public_affairs/visitor/*.

Non U.S. Citizens Please Note: All foreign national visitors who do not have permanent resident status and who wish to register for the above meeting must supply additional information. Failure to provide this information prior to arrival will result, at a minimum, in significant delays (up to 24 hours) in entering the facility. Authority to gather this information is derived from United States Department of Commerce Department Administrative Order (DAO) number 207–12. When on-line registration is open, the required Foreign National form and instructions for transmittal via secure file transfer will be available. The Foreign National form needs to be submitted at least 7 business days in advance of the meeting.

Written Comments: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written comments to the Advisory Committee in response to the stated agenda and meeting material. Meeting material, including work products will be made available on the Advisory Committee's Web site: *http://sncaadvisorycommittee.noaa.gov/Meetings.aspx*.

Oral Comments: In addition to written statements, members of the public may present oral comments at 4:25 p.m. on September 13, 2016. Those individuals interested in making oral comments should indicate their intent through the registration form and time will be allocated on a first-come, first-served basis. Time allotted for an individual's comment period will be limited to no more than 3 minutes. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled public comment periods, written comments can be submitted in lieu of oral comments. The Advisory Committee expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements.

Registration: Individuals and entities who wish to attend the public meeting are required to pre-register for the meeting by completing the online registration form: *http://sncaadvisorycommittee.noaa.gov/Meetings.aspx*. Anyone wishing to attend this meeting must register by 5:00 p.m. (EST), Tuesday, September 6, 2016. Registered attendees will receive security and campus instructions prior to the workshop. On-site registration will not be available for this meeting. Please note that seating is limited for public attendees, and will be granted on a first come first serve basis.

Additional Information: The Department of Commerce welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations, please indicate your requirements on the online registration form.

FOR FURTHER INFORMATION CONTACT: Laura Letson, Advisory Committee for the SNCA Executive Director, SSMC3, Room 11359, 1315 East-West Highway, Silver Spring, MD 20910; Email: *Laura.Letson@noaa.gov;* or visit the Advisory Committee Web site *http://sncaadvisorycommittee.noaa.gov1178*.

Dated: August 24, 2016.

Jason Donaldson,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2016–20705 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–P–2016–0026]

Request for Comments and Notice of Roundtable Event on Leveraging Electronic Resources To Retrieve Information From Applicant's Other Applications and Streamline Patent Issuance

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) is continuing its efforts to expedite and improve the overall patent process. Accordingly, the USPTO is exploring how to best utilize available electronic resources to provide examiners with information (*e.g.*, prior art, search reports, etc.) from applicant's other applications as early as possible to increase patent examination quality and efficiency. These other applications, for example, could have the same or substantially the same disclosure (*e.g.*, domestic parent and counterpart foreign applications) as the U.S. application being examined. In addition to improving patent examination quality and efficiency, providing the examiner with this information from applicant's other applications will reduce applicant's burden to provide this information to the USPTO.

Further, the USPTO is seeking to reduce the issuance time of a patent by eliminating potentially unnecessary information from the front page of the patent. In particular, the USPTO is seeking public comment on what information, beyond a copy of the specification and drawing that is required by statute, should be part of the patent considering that complete information concerning U.S. patents and U.S. patent application publications are accessible to the public via the Patent Application Information Retrieval (PAIR) system.

To assist the USPTO in determining the best way to address these two topics, the USPTO is hosting a roundtable event to obtain public input. The roundtable will be open for any member of the public and will provide a forum for a discussion of the questions identified in this notice. Written comments in response to these questions set forth in this Notice also are requested.

DATES: *Event Date:* The roundtable will be held on September 28, 2016, beginning at 1:00 p.m. Eastern Daylight Time (EDT), and ending at 4:00 p.m. EDT.

Roundtable Registration Deadline: Registration to attend the roundtable in person or via webcast is required by September 21, 2016. Additionally, requests to participate in the roundtable as a speaker must be submitted in writing no later than September 14, 2016. See the "Event Registration Information" section of this notice for additional details on how to register and how to request to present as a speaker.

Written Comments: Written comments must be received on or before October 28, 2016.

Written comments should be sent by electronic mail addressed to *PriorArtAccess@uspto.gov.* Comments also may be submitted by postal mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Michael Neas, Deputy Director, International Patent Legal Administration. Although comments may be submitted by postal mail, the USPTO prefers to receive comments by electronic mail.

Comments will be available for public inspection via the USPTO's Internet Web site at *http://www.uspto.gov/patent/laws-and-regulations/comments-public-response-specific-requests-uspto,* and at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, VA 22314, upon request. Because comments will be available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

ADDRESSES:

Event Address: The roundtable will be held in the USPTO Headquarters, Madison Auditorium, 600 Dulany Street, Alexandria, VA 22314.

Event Registration Information: To register to attend or request to present as a speaker, please send an email message to *PriorArtAccess@uspto.gov* and provide the following information: (1) Your name, title, company or organization (if applicable), address, phone number, and email address; (2) whether you wish to attend in person or via webcast; and (3) whether you wish to make an oral presentation at the roundtable and, if so, which question(s) identified in part III of the **SUPPLEMENTARY INFORMATION** section of this notice will be addressed and the approximate desired length of your presentation. Each attendee, even if from the same organization, must register separately.

In order to give all speakers a meaningful opportunity to speak, the USPTO may not be able to accommodate all persons who wish to make a presentation. However, the USPTO will attempt to accommodate as many persons as possible who wish to make a presentation. After reviewing the speaker requests and the information regarding the presentations provided in the requests, the USPTO will contact each speaker prior to the event with the amount of time available and the approximate time that the speaker's presentation is scheduled to begin. The amount of time available for each presentation may be limited to ensure that all persons selected to speak will have a meaningful opportunity to do so. Speakers who opt to employ slides as part of their presentation must send final electronic copies of the slides in Microsoft PowerPoint to *PriorArtAccess@uspto.gov* by September 21, 2016, so that the slides can be displayed at the roundtable. Additionally, the USPTO will provide an opportunity for persons in the audience to speak at the roundtable without a formal presentation.

For more information on the roundtable, including webcast access instructions, agenda and a list of speakers, please visit *https://www.uspto.gov/patent/initiatives/patent-application-initiatives/roundtable-discuss-leveraging-electronic-resources.*

If special accommodations due to a disability are needed, please inform the contact person(s) identified below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Jessica Patterson, Program Manager, International Patent Cooperation, by telephone at 571–272–8828, or by email to *PriorArtAccess@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. *Purpose of Notice:* This notice announces a roundtable event to solicit stakeholder input concerning the questions identified in part III of this section. In particular, at the roundtable we seek to explore how the USPTO can better leverage applicant's other applications having the same or substantially the same disclosure (*e.g.*, domestic parent and counterpart foreign applications (see MPEP 609.04(b)(V))) as the U.S. application under examination, to provide examiners with relevant information as early as possible. The USPTO believes that providing this information at the earliest possible stage of prosecution of the U.S. application can improve the examination efficiency and quality. The participants at the roundtable also will provide feedback on what information, beyond that of a copy of the specification and drawing set forth in 35 U.S.C. 154(a)(4), should be part of a patent considering that complete information concerning U.S. patents and U.S. patent application publications are accessible to the public via the PAIR system. The USPTO is also seeking written comments on the questions identified in part III of this section. The public is invited to provide comments on these questions or any other issues relevant to the consideration or development of the two topics discussed in this notice. Any member of the public, whether attending the roundtable or not, may submit written comments for consideration by the USPTO on any of the issues identified in this notice.

II. *Background:* The USPTO strives to expedite and improve the overall patent application process by (1) increasing patent examination quality and efficiency, and (2) streamlining patent issuance after an application is allowed.

(1) *Increasing Patent Examination Quality and Efficiency*

Examiners consider information from various sources when making patentability determinations. One such source may be an information disclosure statement filed by the applicant. Another would be information identified by the examiner during his prior art search. For continuing applications, the examiner will also consider the information the USPTO previously considered during the examination of a domestic parent application (other than an international application that designated the U.S.). *See* section 609.02 of the *Manual of Patent Examining Procedure* (9th ed. 2015) (Rev. 07.2015, November 2015) (MPEP). The USPTO's work sharing efforts have resulted in the development of additional sources of information from foreign counterpart applications that is likely highly relevant to the U.S. application under examination. For example, Global Dossier, a work sharing initiative developed by the IP5 offices (USPTO, the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), and the State Intellectual Property Office of the People's Republic of China (SIPO)), provides U.S. examiners and the public access to the official file contents (*e.g.*, prior art, search reports, office actions, etc.) of counterpart foreign applications.

The USPTO is exploring how to better leverage the information contained in these counterpart foreign applications and other U.S. applications with the same or substantially the same disclosure to improve examination efficiency and quality. The USPTO seeks, for example, the development of a system that utilizes both Global Dossier and the USPTO's internal databases to provide examiners with the information from counterpart foreign and domestic parent applications automatically at the earliest stage in prosecution of a U.S. application to improve the quality and efficiency of examination.

Global Dossier and the USPTO's databases may contain information from applicant's other applications that are not a domestic parent application or a counterpart foreign application. In fact, the pool of applications available for monitoring for relevant information could be much larger (*e.g.*, the database may contain information on applicant's other child applications or other applications that are indirectly related to the U.S. application through a priority claim). Numerous concerns, however, arise when determining how to effectively implement a system with a larger scope of applications than domestic parent and counterpart foreign applications. Similarly, numerous concerns arise when considering what information would be provided to an examiner from another of applicant's applications. For example, too many applications, like too many items of information, might present large amounts of information that has no relevance to the application being examined. The examiner's consideration of such information may result in the examiner not having time to fully consider information that is relevant, and possibly material, to the U.S. application under examination. The right balance of the scope of applications and information therein is critical to ensure examiners are provided with the most relevant information without overburdening them with immaterial and marginally relevant information.

As part of its efforts to seek the right balance, the USPTO is requesting input on the best way it can ascertain the presence of these other applications having the same or substantially the same disclosure as the instant U.S. application under examination and import potentially relevant information contained therein. For instance, some applicants may prefer a fully automated system in which the USPTO monitors a set of applications that have been predefined by the USPTO, such as domestic parent and counterpart foreign applications, for certain information (*e.g.*, prior art) to be imported into the U.S. application under examination. Other applicants may not desire that the USPTO import information from such a USPTO predefined set of applications, but instead, may prefer a set of applications defined by the applicant from which information is imported for consideration by the examiner. Still, other applicants may want to define both the set of applications and the particular information to be imported from these applications. In view of the different possible approaches for importing information, such as those mentioned herein, the USPTO would like stakeholders' input on what approach they believe the USPTO should consider implementing so examiners have the most pertinent information at the earliest stage of prosecution of the U.S. application. Furthermore, if the USPTO were to import information using any approach, the USPTO would like stakeholders' input on what documentation should be included in the record of the U.S. application under examination to accurately reflect that the information was imported and considered by the examiner.

(2) *Streamlining patent issuance after an application is allowed*

The USPTO is also considering what information, beyond the specification and drawings provided for in 35 U.S.C. 154(a)(4), should be part of a patent. This would include studying the degree to which the USPTO can migrate from the current paper-based process to 21st century processes that make greater use of the reality that complete information concerning U.S. patents and U.S. patent application publications is accessible to the public via the PAIR system. For example, the USPTO discontinued printing inventor address information in 2011 as this information is readily accessible via PAIR. *See Elimination of an Inventor's Mailing Address on Patents and Application Publications*, 1360 *Off. Gaz. Pat. Office* 197 (Nov. 23, 2010). The USPTO also eliminated the listing of prior art documents accessible in Public PAIR on reexamination certificates to expedite the issuance of reexamination certificates. *See Elimination of the Listing of Prior Art Documents on Reexamination Certificates*, 1371 *Off. Gaz. Pat Office* 95 (October 11, 2011). The USPTO is seeking public comment on what information (*e.g.*, prior art references, classification information, etc.) should be retained on the face of the patent now that processing and examination is conducted in an electronic environment.

III. *Questions for Written Comments and Discussion at the Roundtable Event:* The USPTO seeks written comments and participant feedback at the roundtable on the following questions related to how the USPTO should efficiently utilize information from applicant's other applications having the same or substantially the same disclosure to automatically provide U.S. examiners with relevant information at the earliest stage of examination and on what information should be part of a patent:

1. In balancing the goals of examination quality and efficiency, should the USPTO monitor other applications, besides domestic parent and counterpart foreign applications, for relevant information located therein for consideration in the instant U.S. application? If so, which other applications should be monitored (*e.g.*, siblings, applications involving the same or related technology, etc.)?

2. What is the most convenient way to bring an application to the USPTO's attention that should be monitored for information during the examination of a U.S. application (*e.g.*, automated system, applicant notifies the USPTO, etc.)?

3. How should the USPTO determine which information from the monitored applications to provide examiners while ensuring they are not overburdened with immaterial and marginally relevant information?

4. If the USPTO were to import information from applicant's other applications, how should the USPTO document the information imported into the image file wrapper of the instant U.S. application? For example, should the record reflect which domestic parent or counterpart foreign application the information was imported from, the date that the information was imported, and whether the examiner considered the imported information?

5. Taking into consideration the information that is publicly available in PAIR, what information should be part of a patent? For example, should prior art references and classification information still be listed on the front page of a patent?

Dated: August 18, 2016.

Michelle K. Lee,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2016–20703 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2016–0025]

Third Annual USPTO Cooperative Patent Classification Meeting With Industry Users

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is hosting its third annual Cooperative Patent Classification (CPC) meeting with industry users at its Alexandria Campus. CPC is a bilateral classification system jointly developed by the USPTO and the European Patent Office (EPO). CPC is jointly managed and maintained by both offices, and is available for public search for classification. The upcoming meeting is open to the public and will inform attendees on the latest and upcoming developments concerning the CPC. The meeting also will be an opportunity for attendees to share their views about the CPC.

DATES: The meeting will be held on Monday, September 19, 2016, beginning at 9:30 a.m. Eastern Daylight Time (EDT), and ending at 5:00 p.m. EDT.

ADDRESSES: The meeting will be held at the USPTO in the Madison Auditorium on the concourse level of the Madison Building located at 600 Dulany Street, Alexandria, Virginia 22314.

FOR MEETING REGISTRATION: There is no fee to register for the meeting and registration will be on a first-come, first-serve basis. Early registration is recommended because seating is limited. Registration on the day of the meeting (September 19, 2016) will be permitted on a space-available basis beginning at 8:30 a.m. EDT.

To register, please provide your name and phone number to *CPCannualmeeting@uspto.gov.* Registrants also may choose to identify their company or organization, and their position thereat, so that a workshop to be held during the meeting may be best tailored to meet the attendees' needs.

FOR FURTHER INFORMATION CONTACT: Christopher Kim, Director of Classification Quality and International Coordination Division (CQIC), Office of International Patent Classification (OIPC), by telephone at 571–272–7980, or by electronic mail message at *CPCannualmeeting@uspto.gov.*

SUPPLEMENTARY INFORMATION: The CPC is a detailed classification system in effect at the USPTO and based on the International Patent Classification scheme. The CPC incorporates best classification practices from both the U.S. and European systems.

The USPTO and the EPO designed the CPC to enable patent examiners and patent system users worldwide to conduct more efficient prior art searches. It provides an increased number of breakdowns compared to the U.S. Patent Classification System, allowing for targeted searches with more focused results. The CPC also was designed to encourage work sharing initiatives focused on enhancing efficiency by reducing duplicative work. Additionally, revisions to the CPC system can be made by both Offices on a regular basis, allowing for a rapid response to filing trends and emerging technologies.

At the September 19, 2016 meeting, key USPTO executive staff and project managers will brief attendees on the progress of the CPC, including recent changes and updates to the CPC. Attendees will receive information concerning external user interaction, accessibility, and outreach related to the CPC. In addition, a workshop will be held to provide training on the use of the CPC. Similar informational meetings have been held in Europe.

For further information about the CPC and the September 19, 2016 meeting, including the agenda for the meeting, please visit *www.cpcinfo.org.*

Dated: August 23, 2016.

Russell Slifer,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

[FR Doc. 2016–20700 Filed 8–26–16; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds a service to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: Effective September 27, 2016.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Addition

On 6/3/2016 (81 FR 35749–35750), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractor, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the service to the Government.

2. The action will result in authorizing a small entity to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List.

Service Type: Custodial and Related Service
Service Mandatory for: GSA PBS Region 1, Thomas P. O'Neill, Jr. Federal Building, Boston, MA
Mandatory Source(s) of Supply: Work, Incorporated, Dorchester, MA
Contracting Activity: Public Buildings Service, PBS R1, Boston, MA

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2016–20582 Filed 8–26–16; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[OMB Control Number 0704–0332; Docket Number DARS–2016–0024]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by September 28, 2016.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, DoD Pilot Mentor-Protege Program; OMB Control Number 0704–0332.

Type of Request: Revision.

Number of Respondents: 122.

Responses per Respondent: Approximately 2.

Annual Responses: 240.

Average Burden per Response: Approximately 1 hour.

Annual Burden Hours: 240.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Frequency: On occasion.

Needs and Uses: DoD needs this information to ensure that participants in the Mentor-Protege Program (“the Program”) are fulfilling their obligations under the mentor-protege agreements and that the Government is receiving value for the benefits it provides through the Program. DoD uses the information as source data for reports to Congress required by section 811(d) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65). Participation in the Program is voluntary.

Respondent's Obligation:

a. DFARS Appendix I, section I–112.2(a)–(d), requires mentor firms to report on the progress made under active mentor-protege agreements semiannually for the periods ending March 31 and September 30. The September 30 report must address the entire fiscal year. Reports must include the following:

1. Data on performance under the mentor-protege agreement, including dollars obligated, expenditures, subcontracts awarded to the protege firm, developmental assistance provided, impact and progress of the agreement.

2. A copy of the Individual Subcontracting Report (ISR) or SF 294 and Summary Subcontracting Report (SSR) for each contract where developmental assistance was credited to subcontracting goals.

b. DFARS Appendix I, section I–112.2(e), requires protege firms to submit reports on an annual basis. Reports must include progress made by the protege firm in employment, revenues, and participation in DoD contracts during each fiscal year of the Program participation term and each of the two fiscal years following the expiration of the Program participation term. During the Program participation term, the protege firms may provide this data to the mentor firm for inclusion in the mentor report required by I–112(a)–(d) for the period ending September 30.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,
Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–20636 Filed 8–26–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[OMB Control Number 0704–0369; Docket Number DARS–2016–0025]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by September 28, 2016.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 227.71, Rights in Technical Data, and Subpart 227.72, Rights in Computer Software and Computer Software Documentation, and related provisions and clauses of the Defense Federal Acquisition Regulation Supplement (DFARS); OMB Control Number 0704–0369.

Type of Request: Revision.

Number of Respondents: 75,250.

Responses per Respondent: Approximately 13.

Annual Responses: 959,602.

Average Burden per Response: Approximately 1 hour.

Annual Response Burden Hours: 904,574 hours.

Total Annual Burden Hours: 995,174 hours.

Annual Recordkeeping Burden Hours: 90,600 hours.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Frequency: On occasion.

Needs and Uses: DFARS Subparts 227.71 and 227.72 prescribe the use of solicitation provisions and contract clauses containing information collection requirements that are associated with rights in technical data and computer software. DoD needs this information to implement 10 U.S.C. 2320, Rights in technical data, and 10 U.S.C. 2321, Validation of proprietary data restrictions. DoD uses the information to recognize and protect contractor rights in technical data and computer software that are associated with privately funded developments; and to ensure that technical data delivered under a contract are complete and accurate and satisfy contract requirements.

Respondent's Obligation:

a. *Identification and assertion of use, release, or disclosure restrictions prior to delivery.* DFARS provision 252.227–7017, Identification and Assertion of Use, Release, or Disclosure Restrictions, is used in all noncommercial solicitations that include either DFARS clauses 252.227–7013, Rights in Technical Data—Noncommercial Items; 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; and 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program, to require offerors to identify and assert, in their offer, technical data or computer software to be delivered with other than unlimited rights in their offer.

b. *Post-award notices of use, release, or disclosure restriction and marking.* DFARS clauses 252.227–7013, Rights in Technical Data—Noncommercial Items; 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; and 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program, require contractors to both identify and mark technical data or software that must be protected from unauthorized release or disclosure.

c. *Justification for any asserted restriction.* DFARS 252.227–7019, Validation of Asserted Restrictions—Computer Software, and 252.227–7037, Validation of Restrictive Markings on Technical Data, require contractors and subcontractors to maintain adequate records to justify the validity of any markings that assert restrictions on the Government's rights to use, modify, reproduce, perform, display, release or disclose delivered or required to be delivered.

d. *Use and non-disclosure agreement.* DFARS 227.7103–7, Use and non-disclosure agreement, requires intended recipients of technical data or computer software delivered to the Government with restrictions on use, modification, reproduction, release, performance, display, or disclosure, to sign the use and non-disclosure agreement at 227.7103–7(c) prior to release or disclosure of the data, unless the recipient is a Government contractor that requires access to a third parties data or software for the performance of a Government contract that contains the clause at 252.227–7025, Limitations on Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

e. *Limitations on use or disclosure.* DFARS 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, requires contractors and subcontractors at any tier that obtain data from the Government to which the Government has only limited rights, restricted rights, or SBIR rights legends to submit a "Use and Disclosure" agreement.

f. *Identification of previously delivered technical data or computer software.* DFARS 252.227–7028, Technical Data or Computer Software Previously Delivered to the Government, requires offerors to identify any technical data or computer software that it intends to deliver that are identical or substantially similar to technical data or computer software that the offeror has produced for, delivered to or is obligated to deliver to the Government.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–20637 Filed 8–26–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice Inviting Publishers To Submit Tests for a Determination of Suitability for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education (1) invites publishers to submit tests for review and approval for use in the National Reporting System for Adult Education (NRS); and (2) announces the date by which publishers must submit these tests.

DATES: Deadlines for transmittal of applications: October 1, 2016 and April 1, 2017.

ADDRESSES: Submit your application by mail (through the U.S. Postal Service or a commercial carrier) or deliver your application by hand or by courier service to: NRS Assessment Review, c/o American Institutes for Research, 1000 Thomas Jefferson Street NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: John LeMaster, U.S. Department of Education, 400 Maryland Avenue SW., Room 11152, Potomac Center Plaza, Washington, DC 20202–7240. Telephone: (202) 245–6218 or by email: *John.LeMaster@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

The Department's regulations for Measuring Educational Gain in the National Reporting System for Adult Education, 34 CFR part 462 (NRS regulations), include the procedures for determining the suitability of tests for use in the NRS.

Criteria the Secretary Uses: In order for the Secretary to consider a test suitable for use in the NRS, the test must meet the criteria and requirements established in 34 CFR 462.13.

Submission Requirements:

(a) In preparing your application, you must comply with the requirements in 34 CFR 462.11.

(b) In accordance with 34 CFR 462.10, the deadlines for transmittal of applications in this fiscal year are October 1, 2016, and April 1, 2017.

(c) Whether you submit your application by mail (through the U.S. Postal Service or a commercial carrier) or deliver your application by hand or by courier service, you must mail or deliver four copies of your application, on or before the deadline date, to the following address: NRS Assessment Review, c/o American Institutes for Research, 1000 Thomas Jefferson Street NW., Washington, DC 20007.

(d) If you submit your application by mail or commercial carrier, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

(e) If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(f) We do not consider applications postmarked after the application deadline date. If an application is postmarked after the October 1, 2016 deadline date but before the April 1, 2017 date, the application will be considered timely for the April 1 deadline date.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

(g) If you submit your application by hand delivery, you (or a courier service) must deliver four copies of the application by hand, on or before 4:30:00 p.m., Washington, DC time, on the application deadline date.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed in this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 29 U.S.C. 3292.

Dated: August 24, 2016.

Johan E. Uvin,

Deputy Assistant Secretary Delegated the Duties of the Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2016–20720 Filed 8–26–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES:

Wednesday, September 14, 2016, 1:00 p.m.–5:00 p.m.

Thursday, September 15, 2016, 8:30 a.m.–1:00 p.m.

ADDRESSES: Red Lion Hanford House, 802 George Washington Way, Richland, WA 99352.

FOR FURTHER INFORMATION CONTACT: Kristen Holmes, Federal Coordinator, Department of Energy Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, A7–75, Richland, WA 99352; Phone: (509) 376–5803; or Email: *Kristen.L.Holmes@rl.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Potential Draft Advice
  - 100 D/H Proposed Plan
- Discussion Topics
  - Committee Reports, to include key accomplishments from the Fiscal Year 2016 Work Plan
  - Introduction of new Hanford Advisory Board (HAB) members and review ground rules
  - Board Business, which includes adopting the Fiscal Year 2017 Work Plan, HAB calendar, and reviewing HAB leadership and national liaison nomination process

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kristen Holmes at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kristen Holmes at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Kristen Holmes's office at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.hanford.gov/page.cfm/hab.*

Issued at Washington, DC, on August 23, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–20619 Filed 8–26–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Electricity Advisory Committee

AGENCY: Office of Electricity Delivery and Energy Reliability, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Electricity Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92– 463, 86 Stat.

770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, September 28, 2016 (12:00 p.m.–5:50 p.m. EST), Thursday, September 29, 2016 (8:00 a.m.–12:30 p.m. EST).

ADDRESSES: The meeting will be held at the National Rural Electric Cooperative Association, 4301 Wilson Blvd., Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Matthew Rosenbaum, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 8G–017, 1000 Independence Avenue SW., Washington, DC 20585; Telephone: (202) 586–1060 or Email: *matthew.rosenbaum@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Electricity Advisory Committee (EAC) was re-established in July 2010, in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2, to provide advice to the U.S. Department of Energy (DOE) in implementing the Energy Policy Act of 2005, executing the Energy Independence and Security Act of 2007, and modernizing the nation's electricity delivery infrastructure. The EAC is composed of individuals of diverse background selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to electricity.

Tentative Agenda: The meeting of the EAC is expected to include an update on the programs and initiatives of the DOE's Office of Electricity Delivery and Energy Reliability. The meeting is also expected to include a presentation on the 2016 paper sponsored by NOAA, "Future Cost-Comparative Electricity Systems and Their Impact on U.S. CO2 Emissions," panel discussions on opportunities presented by high-voltage direct current (HVDC) transmission and on grid impacts of the high penetration of plug-in electric vehicles, and an open discussion of industry topics relevant to DOE. Additionally, the meeting is expected to include a discussion of the plans and activities of the Smart Grid Subcommittee, Power Delivery Subcommittee, Energy Storage Subcommittee, the Clean Power Plan Working Group, and the Grid Modernization Working Group.

Tentative Agenda: September 28, 2016

12:00 p.m.–1:00 p.m. Swearing in Ceremony for New EAC Members
12:00 p.m.–1:00 p.m. EAC Leadership Committee Meeting
12:00 p.m.–1:00 p.m. Registration
1:00 p.m.–1:20 p.m. EAC Ethics Briefing for all Members
1:20 p.m.–1:35 p.m. Welcome, Introductions, Developments since the June 2016 Meeting
1:35 p.m.–1:50 p.m. Update on the DOE Office of Electricity Delivery and Energy Reliability's Programs and Initiatives
1:50 p.m.–2:30 p.m. Presentation on 2016 paper sponsored by NOAA, "Future Cost-Competitive Electricity Systems and Their Impact on U.S. CO2 Emissions"
2:30 p.m.–2:45 p.m. Break
2:45 p.m.–4:25 p.m. Panel: Opportunities Presented by High-Voltage Direct Current (HVDC) Transmission
4:25 p.m.–4:45 p.m. Update on the Clean Power Plan Working Group Activities and Plans
4:45 p.m.–5:45 p.m. Open Discussion on Industry Topics Relevant to DOE
5:45 p.m.–5:50 p.m. Wrap-up and Adjourn Day One of September 2016 Meeting of the EAC

Tentative Agenda: September 29, 2016

8:00 a.m.–8:25 a.m. EAC Smart Grid Subcommittee Activities and Plans
8:25 a.m.–9:05 a.m. EAC Power Delivery Subcommittee Activities and Plans
9:05 a.m.–9:45 a.m. EAC Energy Storage Subcommittee Activities and Plans
9:45 a.m.–10:00 a.m. Break
10:00 a.m.–11:40 a.m. Panel: Grid Impacts of High Penetration of Plug-in Electric Vehicles
11:40 a.m.–12:10 p.m. Update on the Grid Modernization Initiative Working Group Activities and Plans
12:10 p.m.–12:20 p.m. Public Comments
12:20 p.m.–12:30 p.m. Wrap-up and Adjourn September 2016 Meeting of the EAC

The meeting agenda may change to accommodate EAC business. For EAC agenda updates, see the EAC Web site at: *http://energy.gov/oe/services/electricity-advisory-committee-eac*.

Public Participation: The EAC welcomes the attendance of the public at its meetings. Individuals who wish to offer public comments at the EAC meeting may do so on Thursday, September 29, 2016, but must register at the registration table in advance. Approximately 10 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed three minutes. Anyone who is not able to attend the meeting, or for whom the allotted public comments time is insufficient to address pertinent issues with the EAC, is invited to send a written statement to Mr. Matthew Rosenbaum.

You may submit comments, identified by "Electricity Advisory Committee Open Meeting," by any of the following methods:

- *Mail/Hand Delivery/Courier:* Matthew Rosenbaum, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 8G– 017, 1000 Independence Avenue SW., Washington, DC 20585.
- *Email: matthew.rosenbaum@hq.doe.gov.* Include "Electricity Advisory Committee Open Meeting" in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. *Instructions:* All submissions received must include the agency name and identifier. All comments received will be posted without change to *http://energy.gov/oe/services/electricity-advisory-committee-eac*, including any personal information provided.
- *Docket:* For access to the docket, to read background documents or comments received, go to *http://energy.gov/oe/services/electricity-advisory-committee-eac.*

The following electronic file formats are acceptable: Microsoft Word (.doc), Corel Word Perfect (.wpd), Adobe Acrobat (.pdf), Rich Text Format (.rtf), plain text (.txt), Microsoft Excel (.xls), and Microsoft PowerPoint (.ppt). If you submit information that you believe to be exempt by law from public disclosure, you must submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. You must also explain the reasons why you believe the deleted information is exempt from disclosure.

DOE is responsible for the final determination concerning disclosure or nondisclosure of the information and for treating it in accordance with the DOE's Freedom of Information regulations (10 CFR 1004.11).

Note: Delivery of the U.S. Postal Service mail to DOE may be delayed by several weeks due to security screening. DOE, therefore, encourages those wishing to comment to submit comments electronically by email. If comments are submitted by regular mail, the Department requests that they be accompanied by a CD or diskette containing electronic files of the submission.

Minutes: The minutes of the EAC meeting will be posted on the EAC Web page at *http://energy.gov/oe/services/electricity-advisory-committee-eac.* They can also be obtained by contacting Mr. Matthew Rosenbaum at the address above.

Issued in Washington, DC, on August 23, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–20618 Filed 8–26–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–138–000.

Applicants: Effingham County Power, LLC, SEPG Energy Marketing Services, LLC, Washington County Power, LLC.

Description: Supplement to June 30, 2016 Application for Authorization Pursuant to Section 203 of the FPA of Effingham County Power, LLC, *et al.*

Filed Date: 8/19/16.

Accession Number: 20160819–5219.

Comments Due: 5 p.m. ET 8/29/16.

Docket Numbers: EC16–157–000.

Applicants: Alcoa Power Generating Inc., Cube Yadkin Generation LLC, Cube Yadkin Transmission LLC.

Description: Supplement to July 26, 2106 Joint Application for Authorization for Disposition and Consolidation of Jurisdictional Facilities and Acquisition of Existing Generation Facilities of Alcoa Power Generating Inc., *et al.*

Filed Date: 8/18/16.

Accession Number: 20160818–5342.

Comments Due: 5 p.m. ET 8/29/16.

Docket Numbers: EC16–169–000.

Applicants: Entergy Nuclear FitzPatrick, LLC, Exelon Generation Company, LLC.

Description: Joint Application under FPA Section 203 of Entergy Nuclear FitzPatrick, LLC and Exelon Generation Company, LLC.

Filed Date: 8/19/16.

Accession Number: 20160819–5257.

Comments Due: 5 p.m. ET 10/3/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2463–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Service Agreement No. 4524, Queue Position AA2–100 to be effective 7/21/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5243.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2464–000.

Applicants: Mississippi Power Company.

Description: § 205(d) Rate Filing: Shared Service Amendment to MRA Cost Based Tariff to be effective 10/22/2016.

Filed Date: 8/23/16.

Accession Number: 20160823–5044.

Comments Due: 5 p.m. ET 9/13/16.

Docket Numbers: ER16–2465–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: First Revised Service Agreement No. 2135, Queue Position AA2–079 to be effective 7/27/2016.

Filed Date: 8/23/16.

Accession Number: 20160823–5054.

Comments Due: 5 p.m. ET 9/13/16.

Docket Numbers: ER16–2466–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to First Revised ISA No. 4355, Queue No. Z2–011 to be effective 12/21/2015.

Filed Date: 8/23/16.

Accession Number: 20160823–5057.

Comments Due: 5 p.m. ET 9/13/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20622 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2456–000]

Emera Energy Services Subsidiary No. 12 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Emera Energy Services Subsidiary No. 12 LLC‘s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20627 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2449–000]

Boulder Solar II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Boulder Solar II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20625 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2462–000]

Oregon Clean Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Oregon Clean Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20631 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–170–000.
Applicants: Black Oak Wind, LLC.
Description: Application of Black Oak Wind, LLC for Authorization of Transaction Pursuant to Section 203 of the Federal Power Act, and Request for Expedited Action and Privileged Treatment.
Filed Date: 8/19/16.
Accession Number: 20160819–5288.
Comments Due: 5 p.m. ET 9/9/16.

Docket Numbers: EC16–171–000.
Applicants: Union Atlantic Electricity, CPG Power Holdings LLC.
Description: Application for Authorization of Transaction Under FPA Section 203 of CPG Power Holdings LLC.
Filed Date: 8/19/16.
Accession Number: 20160819–5290.
Comments Due: 5 p.m. ET 9/9/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–137–000.

Applicants: Brady Interconnection, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Brady Interconnection, LLC.

Filed Date: 8/19/16.

Accession Number: 20160819–5296.

Comments Due: 5 p.m. ET 9/9/16.

Docket Numbers: EG16–138–000.

Applicants: Pumpjack Solar I, LLC.

Description: Pumpjack Solar I, LLC submits Notice of Self-Certification as an Exempt Wholesale Generator Status.

Filed Date: 8/22/16.

Accession Number: 20160822–5120.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: EG16–139–000.

Applicants: Wildwood Solar I, LLC.

Description: Wildwood Solar I, LLC submits Notice of Self-Certification as an Exempt Wholesale Generator.

Filed Date: 8/22/16.

Accession Number: 20160822–5125.

Comments Due: 5 p.m. ET 9/12/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–1614–000.

Applicants: Louisiana Generating LLC.

Description: Amendment to May 2, 2016 Request of Louisiana Generating LLC to recover costs associated with acting as a Local Balancing Authority under MISO Tariff.

Filed Date: 8/19/16.

Accession Number: 20160819–5221.

Comments Due: 5 p.m. ET 8/26/16.

Docket Numbers: ER16–2445–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2016–08–19 Bidding Rules and Commitment Cost Enhancements to be effective 11/30/2016.

Filed Date: 8/19/16.

Accession Number: 20160819–5235.

Comments Due: 5 p.m. ET 9/9/16.

Docket Numbers: ER16–2454–000.

Applicants: ISO New England Inc., The United Illuminating Company.

Description: § 205(d) Rate Filing: Revisions to Schedule 21–UI of ISO–NE OATT to Comply with Normalization Req. to be effective 7/1/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5147.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2455–000.

Applicants: Emera Energy Services Subsidiary No. 11.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 10/22/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5153.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2456–000.

Applicants: Emera Energy Services Subsidiary No. 12.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 10/22/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5166.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2457–000.

Applicants: Emera Energy Services Subsidiary No. 13.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 10/22/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5169.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2458–000.

Applicants: Emera Energy Services Subsidiary No. 14.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 10/22/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5171.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2459–000.

Applicants: Emera Energy Services Subsidiary No. 15.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 10/22/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5178.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2460–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Rev to OATT Att K-Appx sec 8.8 and OA Schedule 1 sec 8.8 DR Emergency Energy M&V to be effective 11/1/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5186.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2461–000.

Applicants: Public Service Company of Oklahoma.

Description: § 205(d) Rate Filing: PSO–WFEC Bear Creek Delivery Point Agreement to be effective 7/27/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5194.

Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: ER16–2462–000.

Applicants: Oregon Clean Energy, LLC.

Description: Baseline eTariff Filing: Application for Market Based Rate to be effective 10/21/2016.

Filed Date: 8/22/16.

Accession Number: 20160822–5218.

Comments Due: 5 p.m. ET 9/12/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 22, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20634 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2459–000]

Emera Energy Services Subsidiary No. 15 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Emera Energy Services Subsidiary No. 15 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20630 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–4–000]

Tennessee Gas Transmission, L.L.C.; Notice of Availability of the Environmental Assessment for the Proposed Orion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Orion Project, proposed by Tennessee Gas Transmission, L.L.C. (Tennessee Gas) in the above-referenced docket. Tennessee Gas requests authorization to construct and operate pipeline facilities, to add new tie-in facilities, and to modify an existing compressor station in Wayne and Pike Counties, Pennsylvania, which would deliver an additional 135,000 dekatherms per day of natural gas to meet needs of three contracted shippers in the northeast United States.

The EA assesses the potential environmental effects of the construction and operation of the Orion Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The U.S. Army Corps of Engineers participated as a cooperating agency in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis.

The proposed Orion Project includes the following facilities:

- Approximately 12.9 miles of new 36-inch-diameter looping[1] pipeline in Wayne and Pike Counties, Pennsylvania;
- a new internal pipeline inspection ("pig")[2] launcher, crossover, and connecting facilities at the beginning of the proposed pipeline loop in Wayne County;
- a new pig receiver, crossover, and connecting facilities at the end of the proposed pipeline loop in Pike County; and
- modifications at Tennessee Gas's existing Compressor Station 323, including rewheeling/restaging of an existing compressor and other piping and appurtenant modifications.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before September 22, 2016.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP16–4–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[3] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

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[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

[2] A "pig" is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[3] See the previous discussion on the methods for filing comments.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search," and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP16–4). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20623 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. IS16–61–000	8–4–2016	R. Gordan Gooch.
2. CP15–558–000	8–8–2016	Roy Christman.
3. CP15–558–000	8–8–2016	Roy Christman.
4. CP16–10–000	8–8–2016	Susan Richmond-Steitz.
5. CP15–88–000	8–11–2016	Ann Hall McHenry.
6. CP15–558–000	8–12–2016	Marilyn Cummings.
7. CP15–558–000	8–12–2016	Roy Christman.
8. CP15–558–000	8–12–2016	Alan Scott.
9. CP15–558–000	8–12–2016	Fiona Scott.
10. CP15–558–000	8–15–2016	Hunt Stockwell.
11. CP15–558–000	8–15–2016	Roy Christman.
12. CP15–554–000, CP16–10–000	8–16–2016	John Stella.
13. CP14–96–000	8–16–2016	Pat Abeyta.
14. CP16–21–000	8–18–2016	Mike Hughson. Kathy Hughson.
Exempt:		
1. P–14241–000	8–4–2016	State of Alaska Governor Bill Walker.
2. P–553–000	8–5–2016	Upper Skagit Indian Tribe.
3. P–1494–000	8–8–2016	U.S. Senator James M. Inhofe.
4. CP15–558–000	8–9–2016	U.S. House Representative Leonard Lance.
5. P–1494–433	8–10–2016	FERC Staff.[1]
6. P–1494–433	8–11–2016	FERC Staff.[2]
7. P–1494–433	8–11–2016	FERC Staff.[3]
8. CP16–10–000	8–17–2016	U.S. Senator Mark R. Warner.
9. P–13753–002, P–13762–002, P–13771–002, P–13763–002, P–13766–002, P–13767–002.	8–19–2016	FERC Staff.[4]

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[1] Memo reporting phone call on July 26, 2016 with Senator James Inhofe of Oklahoma.

[2] Memo reporting phone call on July 28, 2016 with Senator James Inhofe of Oklahoma.

[3] Memo reporting phone call on July 26, 2016 with Senator James Inhofe of Oklahoma.

[4] Telephone Record for phone call on August 16, 2016 with Rick McCorkle of the U.S. Fish and Wildlife Service.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20633 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2455–000]

Emera Energy Services Subsidiary No. 11 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Emera Energy Services Subsidiary No. 11 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20626 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–107–000]

Southern Maryland Electric Cooperative, Inc.; Choptank Electric Cooperative, Inc.; Notice of Petition for Declaratory Order

Take notice that on August 23, 2016, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[1] Southern Maryland Electric Cooperative, Inc. and Choptank Electric Cooperative, Inc., filed a petition for a declaratory order requesting that the Commission review regulations promulgated by the Public Service Commission of Maryland (MD PSC) regarding community solar energy generation systems (CSEGSs) and to issue a declaratory order alleging that the MD PSC's CSEGS regulations do not comply with federal law, including the Public Utility Regulatory Policies Act and the Federal Power Act, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on September 22, 2016.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20632 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2443–000]

NextEra Blythe Solar Energy Center, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of NextEra Blythe Solar Energy Center, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888

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[1] 18 CFR 385.207.

First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20624 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–1174–000.

Applicants: Kern River Gas Transmission Company.

Description: Section 4(d) Rate Filing: 2016 KRF–PK to be effective 9/17/2016.

Filed Date: 8/17/16.

Accession Number: 20160817–5306.

Comments Due: 5 p.m. ET 8/29/16.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP16–566–002.

Applicants: Total Peaking Services, L.L.C.

Description: Compliance filing TPS Order No. 809 Compliance Filing Order Changes to be effective 4/1/2016.

Filed Date: 8/17/16.

Accession Number: 20160817–5392.

Comments Due: 5 p.m. ET 8/29/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 18, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20635 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2457–000]

Emera Energy Services Subsidiary No. 13 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Emera Energy Services Subsidiary No. 13 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20628 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2458–000]

Emera Energy Services Subsidiary No. 14 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Emera Energy Services Subsidiary No. 14 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 23, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–20629 Filed 8–26–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Notice of Interim Approval

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of Rate Order.

SUMMARY: The Southeastern Power Administration (SEPA) establishes Rate Schedules JW–1–K and JW–2–F. The Deputy Secretary of the Department of Energy confirmed and approved the rates on an interim basis through September 30, 2021, and the rate schedules are subject to confirmation and approval by the Federal Energy Regulatory Commission (Commission) on a final basis.

DATES: The rate schedules are effective, on an interim basis, starting on October 1, 2016.

FOR FURTHER INFORMATION CONTACT: Virgil G. Hobbs III, Assistant Administrator, Finance and Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711, (706) 213–3800. Relevant documents and transcripts are available for inspection.

SUPPLEMENTARY INFORMATION: The Commission, by Order issued December 22, 2011, in Docket No. EF11–12–000, confirmed and approved Wholesale Power Rate Schedules JW–1–J and JW–2–F through September 19, 2016 (137 FERC ¶ 62,248).

By order published March 31, 2016, (81 FR 18607) the rate schedules were extended to September 30, 2016. Rate schedule JW–1–K replaces rate schedule JW–1–J and rate schedule JW–2–F is extended through September 30, 2021.

Dated: August 22, 2016.

Elizabeth Sherwood-Randall,

Deputy Secretary.

DEPARTMENT OF ENERGY

DEPUTY SECRETARY

In the Matter of: Southeastern Power Administration, Jim Woodruff Project Power Rates

Rate Order No. SEPA–61

ORDER CONFIRMING AND APPROVING POWER RATES ON AN INTERIM BASIS

Pursuant to Sections 302(a) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration ("Southeastern" or "SEPA") were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated to Southeastern's Administrator the authority to develop power and transmission rates, delegated to the Deputy Secretary of Energy the authority to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission ("Commission") the authority to confirm, approve, and place into effect on a final basis or to disapprove rates developed by the Administrator under the delegation. This rate order is issued by the Deputy Secretary pursuant to this delegation order.

BACKGROUND

Power from the Jim Woodruff Project is presently sold under Wholesale Power Rate Schedules JW–1–J and JW–2–F. These rate schedules were approved by the Commission on December 22, 2011, for a period ending September 19, 2016 (171 FERC ¶62,248). By order dated March 31, 2016, (81 FR 18607) these rate schedules were extended to September 30, 2016.

Public Notice and Comment

Southeastern prepared a Power Repayment Study, dated July 2016, showing revenues at current rates were adequate to meet repayment criteria and generate an estimated cumulative surplus of over $159 million by fiscal year 2066. The rate reduction is due to reduced United States Army Corps of Engineers (Corps) Operation and Maintenance expense estimates. Southeastern is proposing a rate reduction of about 24 percent to reduce this surplus. On March 31, 2016, by **Federal Register** notice (81 FR 18624), Southeastern proposed a rate adjustment. The notice also announced a Public Information and Comment Forum to be held May 5, 2016, in Chattahoochee, Florida. Two parties asked questions at the forum. Responses to the questions are part of the written record of the forum, and a transcript of the forum is available at Southeastern

Power Administration (see **FOR FURTHER INFORMATION CONTACT** section). The transcript of the forum is part of the record to be filed with the Commission and will be available on the Commission's Web site at *www.ferc.gov.* Written comments were accepted on or before June 29, 2016. Written comments were received from one source, the Southeastern Federal Power Customers. All comments received are summarized and responded to in the following section.

Staff Review of Comments

Notice of proposed rate schedules for the Jim Woodruff System was published in the **Federal Register** March 31, 2016 (81 FR 18624). The notice advised interested parties that a public information and comment forum would be held in Chattahoochee, Florida, on May 5, 2016. The end of the comment period was June 29, 2016. Written comments were received from one source, the Southeastern Federal Power Customers.

Written comments received from the Southeastern Federal Power Customers and the comments received at the public forum are summarized below. Southeastern's response follows each comment.

Comment 1: Overall, the SeFPC supports the rate proposed by SEPA.

Response 1: Southeastern has requested the Deputy Secretary to approve the proposed rate schedules on an interim basis. The Deputy Secretary has approved the proposed rate schedules and Southeastern will request the Federal Energy Regulatory Commission (FERC) approve the proposed rate schedules on a final basis.

Comment 2: In our review of the executive summary of the repayment study, we noted that SEPA had modeled roughly $2 million in incremental investment over the course of the repayment study. The customers desire to know the priority of the modeled investment for the Corps.

Response 2: Southeastern is required to provide for estimated replacements in its rate studies. The incremental investment in the comment includes governor replacements for generators 1, 2, and 3 which the Corps plans to place in service in fiscal year 2018. The Corps has provided estimates of future capital investments to Southeastern, which include the governor replacements noted. There is no certainty of appropriated funding, and Southeastern does not currently have the option of customer funding in the Jim Woodruff System.

Southeastern will continue to work with the customers and the Corps to assure appropriate funding of capital investment to ensure reliable, cost effective service.

DISCUSSION

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in July 2016, for the Jim Woodruff Project, shows the rates will pay all system power costs within the 50-year repayment period required by existing law and DOE Order RA 6120.2. The Administrator of Southeastern has certified the rates are consistent with applicable law and are the lowest possible rates to preference customers consistent with sound business principles.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded the adjusted rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. The proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies, and other supporting materials, is available for public review in the offices of Southeastern Power Administration, 1166 Athens Tech Road, Elberton, Georgia 30635–6711.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning October 1, 2016, and ending no later than September 30, 2021.

ORDER

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 2016, attached Wholesale Power Rate Schedules JW–1–K and JW–2–F. The rate schedules shall remain in effect on an interim basis through September 30, 2021, unless such period is extended or until the Federal Energy Regulatory Commission confirms and approves them or substitute rate schedules on a final basis.

Dated: *August 22, 2016*

Elizabeth Sherwood-Randall
Deputy Secretary

Wholesale Power Rate Schedule JW–1–K

Availability:

This rate schedule shall be available to public bodies and cooperatives served by the Duke Energy Florida and having points of delivery within 150 miles of the Jim Woodruff Project (hereinafter called the Project).

Applicability:

This rate schedule shall be applicable to firm power and accompanying energy made available by the Government from the Project and sold in wholesale quantities.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the customer.

Monthly Rate:

The monthly rate for capacity and energy made available or delivered under this rate schedule shall be:

Demand Charge:

$7.74 per kilowatt of monthly contract demand

Energy Charge:

20.44 mills per kilowatt-hour

Purchased Power Pass-Through:

In addition to the capacity and energy charges, each preference customer will be charged for power purchased by Southeastern on behalf of the preference customer. This pass-through will be computed as follows:

Each month, Duke Energy Florida provides Southeastern with the meter readings for preference customers' delivery points that have an allocation of capacity from Southeastern. Subsequently, Duke Energy Florida provides Southeastern with reports of purchased power and support capacity requirements around the 10th of the succeeding month. Southeastern computes its purchased power obligation for each delivery point monthly.

Southeastern computes any revenue from sales to Duke Energy Florida for each delivery point monthly. Southeastern sums the purchased power obligation and any revenue from sales to Duke Energy Florida for each preference customer monthly. The purchased power obligation minus any revenue from sales to Duke Energy Florida for each customer is called the Net Purchased Power Cost. Southeastern charges each customer its respective monthly Net Purchased Power Cost in equal portions over the next eleven billing months.

Billing Demand:

The monthly billing demand for any billing month shall be the lower of (a) the Customer's contract demand or (b) the sum of the maximum 30-minute integrated demands for the month at each of the Customer's points of delivery; provided, that, if an allocation of contract demand to delivery points has become effective, the 30-minute maximum integrated demand for any point of delivery shall not be considered to be greater than the portion of the Customer's contract demand allocated to that point of delivery.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy Made Available:

During any billing month in which the Government supplies all the Customer's capacity requirements for a particular delivery point, the Government will make available the total energy requirement of said point. When both the Government and the Duke Energy Florida are supplying capacity to a delivery point, each kilowatt of capacity supplied to such point during such month will be considered to be accompanied by an equal quantity of energy.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service:

The customer shall, at its own expense, provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Duke Energy Florida on its side of the delivery point.

Service Interruption:

When energy delivered to the Customer's system for the account of the Government is reduced or interrupted for one hour or longer, and such reduction or interruption is not due to conditions on the Customer's system or has not been planned and agreed to in advance, the demand charge for the month shall be appropriately reduced.

October 1, 2016

Wholesale Power Rate Schedule JW–2–F

Availability:

This rate schedule shall be available to the Duke Energy Florida (formerly known as Florida Power Corporation, and hereinafter called the Company).

Applicability:

This rate schedule shall be applicable to electric energy generated at the Jim Woodruff Project (hereinafter called the Project) and sold to the Company in wholesale quantities.

Points of Delivery:

Power sold to the Company by the Government will be delivered at the connection of the Company's transmission system with the Project bus.

Character of Service:

Electric power delivered to the Company will be three-phase alternating current at a nominal frequency of 60 cycles per second.

Monthly Rate:

The monthly rate for energy sold under this schedule shall be equal to 100 percent of the calculated saving in the cost of fuel per kWh to the Company determined as follows:

$$\text{Energy Rate} = 100\% \times \frac{\text{Fm}}{\text{Sm}}$$

[Computed to the nearest $0.00001 (1/100mill) per kWh]

Where:

Fm = Company fuel cost in the current period as defined in Federal Power Commission Order 517 issued November 13, 1974, Docket No. R–479.

Sm = Company sales in the current period reflecting only losses associated with wholesale sales for resale. Sale shall be equated to the sum of (a) generation, (b) purchases, (c) interchange-in, less (d) inter-system sales, less estimated wholesale losses (based on average transmission loss percentage for preceding calendar year).

Determination of Energy Sold:

Energy will be furnished by the Company to supply any excess of Project use over Project generation. Energy so supplied by the Company will be deducted from the actual deliveries to the Company's system to determine the net deliveries for energy accounting and billing purposes. Energy for Project use shall consist of energy used for station service, lock operation, Project yard, village lighting, and similar uses.

The on-peak hours shall be the hours between 7:00 a.m. and 11:00 p.m., Monday through Sunday, inclusive. Off-peak hours shall be all other hours.

All energy made available to the Company shall, to the extent required, be classified as energy transmitted to the Government's preference customers served from the Company's system. All energy made available to the Company from the Project shall be separated on the basis of the metered deliveries to it at the Project during on-peak and off-peak hours, respectively. Deliveries to preference customers of the Government shall be divided on the basis (with allowance for losses) of 77 percent being considered as on-peak energy and 23 percent being off-peak energy. Such percentages may by mutual consent be changed from time to time as further studies show to be appropriate. In the event that in classifying energy there is more than enough on-peak energy available to supply on-peak requirements of the Government's preference customers but less than enough off-peak energy available to supply such customers off-peak requirements, such excess on-peak energy may be applied to the extent necessary to meet off-peak requirements of such customers in lieu of purchasing deficiency energy to meet such off-peak requirements.

Billing Month:

The billing month under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor:

The purchaser and seller under this rate schedule agree that they will both so operate their respective systems that neither party will impose an undue reactive burden on the other.

October 1, 2016

[FR Doc. 2016–20620 Filed 8–26–16; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0715; FRL–9947–07–OEI]

Agency Information Collection Activities; Submitted to OMB for Review and Approval; Comment Request; Tolerance Petitions for Pesticides on Food or Feed Crops and New Food Use Inert Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: "Tolerance Petitions for Pesticides on Food or Feed Crops and New Food Use Inert Ingredients" (EPA ICR No. 0597.12, OMB Control No. 2070–0024). This is a request to renew the approval of an existing ICR, which is currently approved through August 31, 2016. EPA did not receive any comments in response to the previously provided public review opportunity issued in the **Federal Register** of December 24, 2015 (80 FR 80357). With this submission, EPA is providing an additional 30 days for public review.

DATES: Comments must be received on or before September 28, 2016.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OPP–2015–0715, to both EPA and OMB as follows:

- To EPA online using *http://www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and
- To OMB via email to *oira_submission@omb.eop.gov.* Address comments to *OMB Desk Officer for EPA.*

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Amaris Johnson, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 305–9542; email address: *johnson.amaris@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket: Supporting documents, including the ICR that explains in detail the information collection activities and the related burden and cost estimates that are summarized in this document, are available in the docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center, West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

ICR status: This ICR is currently scheduled to expire on August 31, 2016. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Under PRA, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The use of pesticides to increase crop production often results in pesticide residues in or on the crop. To protect the public health from unsafe pesticide residues, EPA sets limits on the nature and level of residues permitted pursuant to section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA). A pesticide may not be used on food or feed crops unless the Agency has established a tolerance (maximum residue limit) for the pesticide residues on that crop or established an exemption from the requirement to have a tolerance.

EPA is responsible for ensuring that the maximum residue levels likely to be found in or on food/feed are safe for human consumption through a careful review and evaluation of residue chemistry and toxicology data. In addition, EPA must ensure that adequate enforcement of the tolerance can be achieved through the testing of submitted analytical methods. If the data are adequate for EPA to determine that there is a reasonable certainty that no harm will result from aggregate exposure, the Agency will establish the tolerance or grant an exemption from the requirement of a tolerance.

This ICR only applies to the information collection activities associated with the submission of a petition for a tolerance action. While EPA is authorized to set pesticide tolerances, the Food and Drug Administration (FDA) is responsible for their enforcement. Food or feed commodities found to contain pesticide residues in excess of established tolerances are considered adulterated, are subject to seizure by FDA, and may result in civil penalties.

Form Numbers: None.

Respondents/affected entities: Pesticide manufacturers, IR–4, and similar entities.

Respondent's obligation to respond: Mandatory under FIFRA section 408.

Estimated number of respondents: 165 (total).

Frequency of response: On occasion.

Total estimated burden: 285,128 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $27,475,223.58 (per year), there is no cost for capital or operation & maintenance costs.

Changes in the estimates: There is an increase of 48,328 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is a result of a change in the estimated average number of tolerance petitions submitted annually (from 137 to 165), which changes the annual burden hours for respondents. There is no change in the per tolerance petition burden. This change is an adjustment.

Authority: 44 U.S.C. 3501 *et seq.*

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20598 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0664; FRL–9948–37–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (40 CFR part 63, subpart O) (Renewal)" (EPA ICR No. 1666.10, OMB Control No.

2060–0283), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0664, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NESHAP (40 CFR part 63, subpart A), and any changes, or additions, to the Provisions are specified at 40 CFR part 63, subpart O. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Ethylene oxide sterilization and fumigation facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart O).

Estimated number of respondents: 125 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 9,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,630,000 (per year), which includes $681,000 in either annualized capital/startup or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in respondent burden in this ICR from the most recently approved ICR. This is due to several reasons: (1) This ICR assumes all existing sources will have to re-familiarize with the regulatory requirements each year; (2) there is an estimated increase in the respondent universe since the last ICR, with an addition of two new sources per year; and (3) the number of responses associated with waiver request and alternative method/monitoring was corrected for consistency. This results in an increase in the labor hours, costs, and total number of responses.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20601 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2015–0836; FRL–9949–08–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Collection of Information on Anaerobic Digestion Facilities Processing Wasted Food To Support EPA's Sustainable Food Management Programs (New)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "Collection of Information on Anaerobic Digestion Facilities Processing Wasted Food to Support EPA's Sustainable Food Management Programs (New)" (EPA ICR No. 2533.01, OMB Control No. 2050–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** (81 FR 10856) on March 2, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–RCRA–2015–0836, to (1) EPA online using *www.regulations.gov,* by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Melissa Pennington, U.S. Environmental Protection Agency, Region 3, Mail Code 3LC40, 1650 Arch Street, Philadelphia, PA 19103; telephone number: (215) 814–3372; email address: *pennington.melissa@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: EPA's Office of Land and Emergency Management Sustainable Food Management (SFM) program is designed to advance sustainable food management practices throughout the United States by preventing and diverting wasted food from landfills. The focal point of the SFM program is the Food Recovery Challenge in which organizations pledge to improve their sustainable food management practices. The success of the SFM program efforts to divert wasted food from landfills requires sufficient capacity to process the diverted materials which includes composting and anaerobic digestion operations. In addition to increasing opportunity to process wasted food diverted from the municipal solid waste stream, anaerobic digesters achieve social, environmental and economic benefits, such as generation of renewable energy, reduction of methane emissions, and opportunities to improve soil health through the production of soil amendments. The SFM program supports these efforts by educating state and local governments and communities about the benefits of wasted food diversion. The SFM program also builds partnerships with state agencies and other strategic partners interested in developing organics recycling capacity and provides tools to assist organizations in developing anaerobic digestion (AD) projects.

This information collection consists of a request for data not currently available on AD facilities processing wasted food as well as a review and update of the existing SFM AD facility inventory. Correspondence will include an electronic survey through which respondents can provide new information on their AD projects and an update to the existing AD facility inventory, if appropriate.

Form Numbers: 6700–03, 6700–04, 6700–05.

Respondents/affected entities: State Liaisons, Industry Representatives, Project Owner/Operators, and Other Stakeholders (*e.g.* non-profits).

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 460 (total).

Frequency of response: Annually.

Total estimated burden: 231 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $16,972 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There are no changes in burden estimates as this is a new ICR.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20608 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0041; FRL–9949–56–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; RadNet (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "RadNet (Renewal)" (EPA ICR No. 0877.13, OMB Control No. 2060–0015) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2016. Public comments were previously requested via the **Federal Register** (81 FR 39042) on June 15, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2003–0041, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: John Griggs, OAR/ORIA/NAREL, 540 South Morris Ave., Montgomery, AL 36115; telephone number: (334) 270–3400; fax number: (334) 270–3454; email address: *Griggs.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: RadNet is a national network of stations collecting sampling media that include air, precipitation, and drinking water. Samples are sent to EPA's National Analytical Radiation Environmental Lab (NAREL) in Montgomery, Alabama, where they are analyzed for radioactivity. RadNet provides emergency response/homeland security and ambient monitoring information on levels of environmental radiation across the nation. All stations, usually operated by state and local personnel, participate in RadNet voluntarily. Station operators complete information forms that accompany the samples. The forms request information pertaining to sample type, sample location, start and stop date and times for sampling, length of sampling period, and volume represented. Data from RadNet are made available regularly on the Agency Web sites—Envirofacts and the EPA Web site *www.epa.gov/radnet.*

Form Numbers: 5900–23, 5900–24, 5900–27, 5900–29.

Respondents/affected entities: State and Local Officials.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 235 (total).

Frequency of response: Biweekly requested for air filters, each measureable event for precipitation, quarterly for drinking water.

Total estimated burden: 3,726 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $139,843 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 3,815 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to the transfer of the milk program to FDA and the elimination of the request to radiologically screen air-filters prior to shipment to NAREL.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20599 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9951–61–Region 2]

Proposed Settlement Pursuant to Section 122(h)(1) of CERCLA Relating to the Newstead Superfund Site, in the Town of Newstead, Erie County, New York.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given by the U.S. Environmental Protection Agency ("EPA"), Region 2, of a proposed settlement agreement pursuant to Section 122(h) of CERCLA, entered into by and EPA, Region 2, and The Sherwin-Williams Company, ("Settling Party"), pertaining to the Newstead Superfund Site ("Site") located in the Town of Newstead, Erie County, New York. Under the Settlement Agreement, the Settling Party agrees to pay EPA $1,000,000.00 in reimbursement of past response costs incurred at the Site.

The Settlement Agreement includes a covenant by EPA not to sue or to take administrative action against the Settling Party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to Past Response Costs as defined in the Settlement Agreement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the Settlement Agreement. EPA will consider all comments received and may modify or withdraw its consent to the Settlement Agreement if comments received disclose facts or considerations that indicate that the proposed Settlement Agreement is inappropriate, improper or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2 offices, 290 Broadway, New York, New York 10007–1866.

DATES: Comments must be submitted on or before September 28, 2016.

ADDRESSES: The proposed Settlement Agreement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. A copy may also be obtained from Meredith D. Fishburn, Attorney-Advisor, Office of Enforcement & Compliance, Office of Site Remediation Enforcement, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave NW., Washington, DC 20460, 202–564–4790, *fishburn.meredith@epa.gov.* Comments should reference the Newstead Superfund Site, Town of Newstead, Erie County, New York., Index No. CERCLA–02–2016–2015 and should be sent by mail or email to Meredith Fishburn, Newstead Superfund Site Attorney, at the above address.

FOR FURTHER INFORMATION CONTACT: Meredith D. Fishburn, Attorney-Advisor, Office of Enforcement & Compliance, Office of Site Remediation Enforcement, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave NW., Washington, DC 20460, 202–564–4790, *fishburn.meredith@epa.gov.*

Dated: August 18, 2016.

Walter Mugdan,

Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2016–20657 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0695; FRL—9946–19–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Site Remediation (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NESHAP for Site Remediation (40 CFR part 63, subpart GGGGG) (Renewal)" (EPA ICR No. 2062.06, OMB Control No. 2060–0534), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0695, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 63, subpart A, as well as for the specific requirements at 40 CFR part 63, subparts GGGGG. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Facilities with site remediation activities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart GGGGG).

Estimated number of respondents: 286 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 140,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $13,900,000 (per year), which includes $582,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment decrease in the total respondent burden hours as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The decrease in labor hours occurred because this ICR corrects a mathematical error in calculating managerial hours. The previous ICR inadvertently calculated managerial labor hours as 50% of technical labor hours, rather than 5%, for Federal Government respondents.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20596 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0681; FRL–9950–67–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Commercial and Industrial Solid Waste Incineration Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NSPS for Commercial and Industrial Solid Waste Incineration Units (40 CFR part 60, subpart CCCC) (Renewal)" (EPA ICR No. 1926.07, OMB Control No 2060–0450), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2016. Public comments were requested previously via the **Federal Register** (80 FR 32116) on June 5, 2015, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0681, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as for the specific requirements at 40 CFR part 60, subparts CCCC. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with these standards.

Form Numbers: None.

Respondents/affected entities: Commercial and industrial solid waste incineration units.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart CCCC).

Estimated number of respondents: 30 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 6,520 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,080,000 (per year), which includes $406,000 in either annualized capital/startup or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the total estimated burden hours and cost as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates occurred because of a change in assumption. This ICR assumes all existing respondents will have to re-familiarize themselves with the regulatory requirements each year.

There is an adjustment increase in the total estimated capital and O&M costs as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in capital and O&M costs occurred because this ICR uses updated labor rates for contractor labor related to capital and O&M costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20593 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0697; FRL–9949–50–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Iron and Steel Foundries (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NESHAP for Iron and Steel Foundries (40 CFR part 63, subpart EEEEE) (Renewal)" (EPA ICR No. 2096.06, OMB Control No. 2060–0543), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0697, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 63, subpart A), as well as for the specific requirements at 40 CFR part 63, subpart EEEEE. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Iron and steel foundries.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart EEEEE).

Estimated number of respondents: 98 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 30,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $3,490,000 (per year), which includes $400,000 in either annualized capital/startup or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the total estimated burden and cost as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates occurred because this ICR assumes that all existing respondents will have to familiarize with regulatory requirements each year.

There is a small adjustment decrease of $60 in the total capital and O&M cost as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The change in estimates occurred because this ICR rounds totals to three significant figures.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20607 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0047; FRL–9948–77–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; School Integrated Pest Management Awards Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: "School Integrated Pest Management Awards Program" (EPA ICR No. 2531.01, OMB Control No. 2070–NEW). This is a request for approval of a new collection. EPA did not receive any comments in response to the previously provided public review opportunity issued in the **Federal Register** of March 21, 2016 (81 FR 15107). With this submission, EPA is providing an additional 30 days for public review.

DATES: Comments must be received on or before September 19, 2016.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OPP–2016–0047, to both EPA and OMB as follows:

- To EPA online using *http://www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and
- To OMB via email to *oira_submission@omb.eop.gov.* Address comments to *OMB Desk Officer for EPA.*

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Lily G. Negash, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 347–8515; email address: *negash.lily@epa.gov @epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket: Supporting documents, including the ICR that explains in detail the information collection activities and the related burden and cost estimates that are summarized in this document, are available in the docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center, William Jefferson Clinton Bldg. West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

ICR status: This is a new ICR. Under PRA, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This new ICR will cover the paperwork activities associated with EPA's program to encourage the use of Integrated Pest Management (IPM) as the preferred approach to pest control in the nation's schools. IPM is a smart, sensible, and sustainable approach to pest control that emphasizes the remediation of pest conducive conditions. IPM combines a variety of pest management practices to provide effective, economical pest control with the least possible hazard to people, property, and the environment. These practices involve exclusion of pests, maintenance of sanitation, and the judicious use of pesticides. The EPA's statutory authorities for this collection of information are set forth in the Pollution Prevention Act of 1990, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Food Quality Protection Act (FQPA) of 1996.

The Agency's IPM implementation efforts are based on a wholesale approach aimed at kindergarten through 12th grade public and Tribal schools. The Agency intends to use the information collected through this ICR to encourage school districts to implement IPM programs and to recognize those that have attained a notable level of success. Because IPM implementation occurs along a continuum, the School IPM (SIPM) incentive program will recognize each milestone step a school district must take to begin, grow, and sustain an IPM program.

This program has five awards categories—*Great Start, Leadership, Excellence, Sustained Excellence,* and *Connector or National Change Agency Award.* The first four categories are stepwise levels that are reflective of the effort, experience, and, ultimately, success that results from implementing EPA-recommended IPM tactics that protect human health and the environment. Schools with pest infestations are not only exposed to potential harm to health and property, but also to stigmatization. The School IPM recognition program will give districts across the nation the opportunity to receive positive reinforcement through public recognition of their efforts in implementing pest prevention and management strategies.

Form Names/numbers: Great Start Award; Leadership Award; Excellence Award; Connector or National Change Agency Award.

Respondents/affected entities: Entities potentially affected by this ICR are school districts, or other entities represent by them.

Respondent's obligation to respond: Voluntary, required to obtain or retain a benefit.

Estimated number of respondents: Annual average of 53 (total).

Frequency of response: On occasion.

Total estimated burden: 859 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $72,000 (per year), includes $0 annualized capital or operation and maintenance costs.

Changes in the Estimates: This is a new ICR.

Authority: 44 U.S.C. 3501 *et seq.*

Courtney Kerwin,
Director, Regulatory Support Division.

[FR Doc. 2016–20616 Filed 8–26–16; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0646; FRL–9948–33–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Incinerators (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NSPS for Incinerators (40 CFR part 60, subpart E) (Renewal)" (EPA ICR No. 1058.12, OMB Control No. 2060–0040), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0646 to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as for the specific requirements at 40 CFR part 60, subpart E. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with these standards.

Form Numbers: None.

Respondents/affected entities: Incinerators constructed or modified after August 17, 1971.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart E).

Estimated number of respondents: 82 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 8,490 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $717,000 (per year), which includes $205,000 in either annualized capital/startup or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the total estimated labor hours. This increase is not due to any program changes. The change occurred due to this ICR assuming all existing respondents must re-familiarize themselves with the regulatory requirements each year.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20600 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0685; FRL–9950–68–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units (40 CFR part 60, subpart DDDD) (Renewal)" (EPA ICR No. 1927.07, OMB Control No. 2060–0451), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0685, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as the specific requirements at 40 CFR part 60, subparts DDDD. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Commercial and industrial solid waste incineration units.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart DDDD).

Estimated number of respondents: 90 (total).

Frequency of response: Initially, occasionally and annually.

Total estimated burden: 19,700 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $3,250,000 (per year), which includes $1,220,000 in either annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the total estimated burden hours and cost as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates occurred because of a change in assumption. This ICR assumes that all existing respondents will have to re-familiarize themselves with the regulatory requirements each year.

There is an adjustment increase in the total estimated capital and O&M costs as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in capital and O&M costs occurred because this ICR uses updated labor rates for contractor labor related to capital and O&M costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20594 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0686; FRL–9951–10–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Organic Liquids Distribution (Non-Gasoline) Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NESHAP for Organic Liquids Distribution (Non-Gasoline) Facilities (40 CFR part 63, subpart EEEE) (Renewal)" (EPA ICR No. 1963.06, OMB Control No. 2060–0539), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0686, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 63, subpart A), as well as for the specific requirements at 40 CFR part 63, subpart EEEE. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Organic liquids (non-gasoline) distribution facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart EEEE).

Estimated number of respondents: 381 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 115,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $20,500,000 (per year), which includes $8,560,000 for both annualized capital/startup and operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates occurred because this ICR assumes all respondents must familiarize themselves with the regulatory requirements each year.

There is a small adjustment increase in the total estimated capital and O&M costs as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in capital and O&M cost estimates occurred because this ICR rounds to three significant figures.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20595 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0118; FRL–9949–96–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Control of Evaporative Emissions From New and In-Use Portable Gasoline Containers (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "Control of

Evaporative Emissions from New and In-Use Portable Gasoline Containers (Renewal)," (EPA ICR No. 2213.05, OMB Control No. 2060–0597) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2016. Public comments were previously requested via the **Federal Register** (81 FR 23293) on April 20, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2013–0118, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Julia Giuliano, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4865; fax number 734–214–4869; email address: *giuliano.julia@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: EPA is required under section 183(e) of the Clean Air Act to regulate Volatile Organic Compound (VOC) emissions from the use of consumer and commercial products. Under regulations promulgated on February 26, 2007 (72 FR 8428) manufacturers of new portable gasoline containers are required to obtain certificates of conformity with the Clean Air Act, effective January 1, 2009. This ICR covers the burdens associated with this certification process. EPA reviews information submitted in the application for certification to determine if the container design conforms to applicable requirements and to verify that the required testing has been performed. The certificate holder is required to keep records on the testing and collect and keep warranty and defect information for annual reporting on in-use performance of their products. The respondent must also retain records on the units produced, apply serial numbers to individual containers, and track the serial numbers to their certificates of conformity. Any information submitted for which a claim of confidentiality is made is safeguarded according to EPA regulations at 40 CFR 2.201 *et seq.*

Form Numbers: None.

Respondents/affected entities: Manufacturers of new portable gasoline containers from 0.25 to 10.0 gallons in capacity.

Respondent's obligation to respond: Mandatory 40 CFR part 59, subpart F.

Estimated number of respondents: 8 (total).

Frequency of response: Yearly for warranty reports; at least once every five years for certificate renewals.

Total estimated burden: 250 hours (per year). Burden is defined at 5 CFR 1320.3(b)

Total estimated cost: $32,419.45 (per year), includes $20,452 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase of 71 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase of the estimated burden and cost estimates is due to a change in the estimated cost of labor and additional testing requirements for new portable fuel container families to comply with the requirements for evaporative testing promulgated in 40 CFR part 59.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20617 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0713; FRL–9948–78–OEI]

Agency Information Collection Activities; Submitted to OMB for Review and Approval; Comment Request; Submission of Protocols and Study Reports for Environmental Research Involving Human Subjects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA): "Submission of Protocols and Study Reports for Environmental Research Involving Human Subjects" (EPA ICR No. 2195.05, OMB Control No. 2070–0169). This is a request to renew the approval of an existing ICR, which is currently approved through August 31, 2016. EPA did not receive any comments in response to the previously provided public review opportunity issued in the **Federal Register** of December 24, 2015 (80 FR 80360). With this submission, EPA is providing an additional 30 days for public review.

DATES: Comments must be received on or before September 28, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0713, to both EPA and OMB as follows:

- To EPA online using *http://www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- To OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information for which disclosure is restricted by statute. Do not submit electronically any information you consider to be CBI or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Ramé Cromwell, Field and External Affairs Division (7605P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–9068; email address: *cromwell.rame@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket: Supporting documents, including the ICR that explains in detail the information collection activities and the related burden and cost estimates that are summarized in this document, are available in the docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center, West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

ICR status: This ICR is currently scheduled to expire on August 31, 2016. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Under the PRA, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). As revised in 2006 and 2013, EPA regulations at 40 CFR part 26 protect the subjects of "third-party" human research (*i.e.*, research that is not conducted or supported by EPA). In addition to other protections, the regulations require affected entities to submit information to EPA and an institutional review board (IRB) prior to initiating, and to EPA upon the completion of, certain studies that involve human research participants. The information collection activity consists of activity-driven reporting and recordkeeping requirements for those who intend to conduct research for submission to EPA under the pesticide laws. If such research involves intentional dosing of human subjects, these individuals (respondents) are required to submit study protocols to EPA and a cognizant local Human Subjects IRB before such research is initiated so that the scientific design and ethical standards that will be employed during the proposed study may be reviewed and approved. Also, respondents are required to submit information about the ethical conduct of completed research that involved human subjects when such research is submitted to EPA.

Respondents/Affected Entities: Entities potentially affected by this ICR are any entities that submits protocols and study reports for environmental research involving human subjects under FIFRA and/or FFDCA.

Respondent's obligation to respond: Mandatory (40 CFR part 26).

Estimated total number of potential respondents: 7 annually for research involving intentional exposure of human subjects and 10 annually for all other submitted research with human subjects.

Frequency of response: On occasion.

Estimated total burden: 10,242 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Estimated total costs: $ 923,121 (per year), includes $0 annualized capital investment or maintenance and operational costs.

Changes in the estimates: There is a decrease of 4,711 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease is due to a reduction in the preparation of protocols and studies. This change is an adjustment.

Authority: 44 U.S.C. 3501 *et seq.*

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–20605 Filed 8–26–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Safety and Homeland Security Bureau; Federal Advisory Committee Act; Task Force on Optimal Public Safety Answering Point Architecture

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA), this notice advises interested persons that the Federal Communications Commission's (FCC) Task Force on Optimal Public Safety Answering Point (PSAP) Architecture (Task Force) will hold its eighth meeting.

DATES: September 23, 2016.

ADDRESSES: Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Timothy May, Federal Communications Commission, Public Safety and Homeland Security Bureau, 202–418–1463, email: *timothy.may@fcc.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be held on September 23, 2016, from 1:00 p.m. to 4:00 p.m. in the Commission Meeting Room of the FCC, Room TW–305, 445 12th Street SW., Washington, DC 20554. The Task Force is a Federal Advisory Committee that studies and reports findings and recommendations on PSAP structure, architecture, operations, and funding to promote greater efficiency of PSAP operations, security, and cost containment during the deployment of Next Generation 911 systems. On December 2, 2014, pursuant to the FACA, the Commission established the Task Force charter for a period of two years, through December 2, 2016. At this meeting, the Task Force will hear updates on 2016 tasks from the Task Force's three working groups: Working Group 1—Optimal Approach to Cybersecurity; Working Group 2—Optimal Approach to NG911 Architecture Implementation; and Working 3—Optimal Approach to NG911 Resource Allocation.

Members of the general public may attend the meeting. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the Internet from the FCC's Web page at *https://www.fcc.gov/general/live.*

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs at (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation requested. In addition, please include a way the FCC may contact you if it needs more information. Please allow at least five days' advance notice; last minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–20651 Filed 8–26–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as "of record" notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: August 22, 2016.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10521	The Woodbury Banking Company	Woodbury	GA	8/19/2016

[FR Doc. 2016–20666 Filed 8–26–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 13, 2016.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Gaylon M. Lawrence, Jr., Memphis, Tennessee,* to retain shares of First Malden Bancshares, Inc., Malden, Missouri, and thereby indirectly retain control of First Missouri Bank of SEMO, Kennett, Missouri.

2. *Gaylon M. Lawrence, Jr., Memphis, Tennessee,* to retain shares of FMS Bancorp, Inc., Poplar Bluff, Missouri, and thereby indirectly retain shares of First Missouri State Bank, Poplar Bluff, Missouri and First Missouri State Bank of Cape County, Cape Girardeau, Missouri.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Alex Dan Knox, individually and single member of Danox, LLC, which is the general partner of Lavanco Energy, LTD and ZSS Knox, LTD, all located in San Angelo, Texas;* and collectively, a group acting in concert, to acquire shares of Sundown Bankshares, Inc., and therefore, indirectly acquire, Sundown State Bank, all in Sundown, Texas.

Board of Governors of the Federal Reserve System, August 24, 2016.

Michele T. Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–20652 Filed 8–26–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0173; Docket 2016–0053; Sequence 28]

Submission for OMB Review; Limitations on Pass-Through Charges

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement regarding Limitations on Pass-Through Charges. A notice was published in the **Federal Register** at 81 FR 33674 on May 27, 2016. No comments were received.

DATES: Submit comments on or before September 28, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and

Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0173, Limitations on Pass-Through Charges". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0173, Limitations on Pass-Through Charges" on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0173, Limitations on Pass-Through Charges.

Instructions: Please submit comments only and cite Information Collection 9000–0173, Limitations on Pass-Through Charges, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Office of Acquisition Policy, at telephone 202–208–4949 or via email to *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

To enable contracting officers to verify that pass-through charges are not excessive, the provision at 52.215–22 requires offerors submitting a proposal for a contract, task order, or delivery order to provide the following information with its proposal: (1) The percent of effort the offeror intends to perform and the percent expected to be performed by each subcontractor. (2) If the offeror intends to subcontract more than 70 percent of the total cost of work to be performed—(i) The amount of the offeror's indirect costs and profit/fee applicable to the work to be performed by the subcontractor(s); and (ii) A description of the value added by the offeror as related to the work to be performed by the subcontractor(s). (3) If any subcontractor intends to subcontract to a lower-tier subcontractor more than 70 percent of the total cost of work to be performed under its subcontract— (i) The amount of the subcontractor's indirect costs and profit/fee applicable to the work to be performed by the lower-tier subcontractor(s); and (ii) A description of the value added by the subcontractor as related to the work to be performed by the lower-tier subcontractor(s).

B. Annual Reporting Burden

Respondents: 4,638.

Responses per Respondent: 8.7.

Total Responses: 40,347.

Hours per Response: 2.

Total Burden Hours: 80,694.

Frequency of Collection: On Occasion.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0173, Limitations on Pass-Through Charges, in all correspondence.

Dated: August 24, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–20586 Filed 8–26–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Community Preventive Services Task Force (Task Force)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Centers for Disease Control and Prevention (CDC) announces the next meeting of the Community Preventive Services Task Force (Task Force). The Task Force is an independent, nonpartisan, nonfederal, and unpaid panel. Its members represent a broad range of research, practice, and policy expertise in prevention, wellness, health promotion, and public health, and are appointed by the CDC Director. The Task Force was convened in 1996 by the Department of Health and Human Services (HHS) to identify community preventive programs, services, and policies that increase healthy longevity, save lives and dollars and improve Americans' quality of life. CDC is mandated to provide ongoing administrative, research, and technical support for the operations of the Task Force. During its meetings, the Task Force considers the findings of systematic reviews on existing research and issues recommendations. Task Force recommendations are not mandates for compliance or spending. Instead, they provide information about evidence-based options that decision makers and stakeholders can consider when determining what best meets the specific needs, preferences, available resources, and constraints of their jurisdictions and constituents. The Task Force's recommendations, along with the systematic reviews of the scientific evidence on which they are based, are compiled in the *Guide to Community Preventive Services (Community Guide).*

DATED: The meeting will be held on Wednesday, October 26, 2016 from 8:30 a.m. to 6:00 p.m. EDT and Thursday, October 27, 2016 from 8:30 a.m. to 1:00 p.m. EDT.

ADDRESSES: The Task Force Meeting will be held at CDC Edward R. Roybal Campus, Tom Harkin Global Communications Center (Building 19), 1600 Clifton Road NE., Atlanta, GA 30329. You should be aware that the meeting location is in a Federal government building; therefore, Federal security measures are applicable. For additional information, please see

Roybal Campus Security Guidelines under **SUPPLEMENTARY INFORMATION.** Information regarding meeting logistics will be available on the Community Guide Web site (*www.thecommunityguide.org*).

Meeting Accessability: This meeting is open to the public, limited only by space availability. All meeting attendees must RSVP to ensure the required security procedures are completed to gain access to the CDC's Global Communications Center.

U.S. citizens must RSVP by 10/24/2016.

Non U.S. citizens must RSVP by 09/23/2016 due to additional security steps that must be completed. Failure to RSVP by the dates identified could result in the inability to attend the Task Force meeting due to the strict security regulations on federal facilities.

Meeting Accessibility: This meeting is available to the public via Webcast. The Webcast URL will be sent to you upon receipt of your RSVP. All meeting attendees must RSVP to receive the webcast information which will be emailed to you upon receipt of registration to the *CPSTF@cdc.gov* mailbox.

For Further Information and to RSVP Contact: Onslow Smith, The Community Guide Branch; Division of Public Health Information Dissemination; Center for Surveillance, Epidemiology and Laboratory Services; Office of Public Health Scientific Services; Centers for Disease Control and Prevention, 1600 Clifton Road, MS–E–69, Atlanta, GA 30333, phone: (404)498–6778, email: *CPSTF@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The purpose of the meeting is for the Task Force to consider the findings of systematic reviews and issue findings and recommendations. Task Force recommendations provide information about evidence-based options that decision makers and stakeholders can consider when determining what best meets the specific needs, preferences, available resources, and constraints of their jurisdictions and constituents.

Matters to be discussed: cardiovascular disease prevention and control, diabetes prevention and control, health equity, and obesity prevention and control.

Roybal Campus Security Guidelines: The Edward R. Roybal Campus is the headquarters of the U.S. Centers for Disease Control and Prevention and is located at 1600 Clifton Road NE., Atlanta, Georgia. The meeting is being held in a Federal government building; therefore, Federal security measures are applicable.

All meeting attendees must RSVP by the dates outlined under *Meeting Accessability.* In planning your arrival time, please take into account the need to park and clear security. All visitors must enter the Edward R. Roybal Campus through the front entrance on Clifton Road. Your car may be searched, and the guard force will then direct visitors to the designated parking area. Upon arrival at the facility, visitors must present government issued photo identification (*e.g.,* a valid federal identification badge, state driver's license, state non-driver's identification card, or passport). Non-United States citizens must complete the required security paperwork prior to the meeting date and must present a valid passport, visa, Permanent Resident Card, or other type of work authorization document upon arrival at the facility. All persons entering the building must pass through a metal detector. Visitors will be issued a visitor's ID badge at the entrance to Building 19 and may be escorted to the meeting room. All items brought to HHS/CDC are subject to inspection.

Dated: August 24, 2016.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2016–20709 Filed 8–26–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: ACF Program Instruction: Children's Justice Act.

OMB No.: 0970–0425.

Description: The Program Instruction, prepared in response to the enactment of the Childrens Justice Act (CJA), Title II of Public Law 111–320, Child Abuse Prevention and Treatment Act Reauthorization of 2010, provides direction to the States and Territories to accomplish the purposes of assisting States in developing, establishing and operating programs designed to improve: (1) The assessment and investigation of suspected child abuse and neglect cases, including cases of suspected child sexual abuse and exploitation, in a manner that limits additional trauma to the child and the child's family; (2) the assessment and investigation of cases of suspected child abuse-related fatalities and suspected child neglect-related fatalities; (3) the investigation and prosecution of cases of child abuse and neglect, including child sexual abuse and exploitation; and (4) the assessment and investigation of cases involving children with disabilities or serious health-related problems who are suspected victims of child abuse or neglect. This Program Instruction contains information collection requirements that are found in Public Law 111–320 at Sections 107(b) and 107(d), and pursuant to receiving a grant award. The information being collected is required by statute to be submitted pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute; to monitor, evaluate and measure grantee achievements in addressing the investigation and prosecution of child abuse and neglect; and to report to Congress.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application & Annual Report	52	1	60	3,120

Estimated Total Annual Burden Hours: 3,120.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and

Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–20610 Filed 8–26–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; the National Health Service Corps Loan Repayment Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than October 28, 2016.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, 5600 Fishers Lane, Room 14N–39, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: The National Health Service Corps Loan Repayment Program.

OMB No.: 0915–0127—Revision.

Abstract: The National Health Service Corps (NHSC) Loan Repayment Program (LRP) was established to assure an adequate supply of trained primary care health professionals to provide services in the neediest Health Professional Shortage Areas (HPSAs) of the United States. Under this program, the Department of Health and Human Services agrees to repay the qualifying educational loans of selected primary care health professionals. In return, the health professionals agree to serve for a specified period of time in a NHSC-approved site located in a federally-designated HPSA approved by the Secretary for LRP participants. The forms utilized by the LRP include the following: The NHSC LRP Application, the Authorization for Disclosure of Loan Information form, the Privacy Act Release Authorization form, and if applicable, the Verification of Disadvantaged Background form and the Private Practice Option form. The first four of the aforementioned NHSC LRP forms collect information that is needed for selecting participants and repaying qualifying educational loans. The last referenced form, the Private Practice Option Form, is needed to collect information for all participants who have applied for that service option.

NHSC-approved sites are health care facilities that provide comprehensive outpatient, ambulatory, primary health care services to populations residing in HPSAs. Related in-patient services may be provided by NHSC-approved Critical Access Hospitals (CAHs). In order to become an NHSC-approved site, new sites must submit a Site Application for review and approval. Existing NHSC-approved sites are required to complete a Site Recertification Application in order to maintain their NHSC-approved status. Both the NHSC Site Application and Site Recertification Application request information on the clinical service site, sponsoring agency, recruitment contact, staffing levels, service users, charges for services, employment policies, and fiscal management capabilities. Assistance in completing these applications may be obtained through the appropriate State Primary Care Offices and the NHSC. The information collected on the applications is used for determining the eligibility of sites for the assignment of NHSC health professionals and to verify the need for NHSC clinicians. NHSC service site approval is valid for 3 years. Sites wishing to remain eligible for the assignment of NHSC providers, must submit a Site Recertification Application every 3 years.

The proposed ICR is a revision to OMB control number 0915–0127 (NHSC LRP) by combining OMB control number 0915–0230 (NHSC Site Application) and adding a new form to the ICR entitled the NHSC Comprehensive Behavioral Health Services Checklist.

Need and Proposed Use of the Information: The need and purpose of this information collection is to obtain information that is used to assess an LRP applicant's eligibility and qualifications for the LRP and to obtain information for NHSC site applicants. Clinicians interested in participating in the NHSC LRP must submit an application to the NHSC to participate in the program, and health care facilities located in HPSAs must submit an NHSC Site Application and Site Recertification Application to determine the eligibility of sites to participate in the NHSC as an approved service site. The NHSC LRP participant application asks for personal, professional and financial information needed to determine the applicant's eligibility to participate in the NHSC LRP. In addition, applicants must provide information regarding the loans for which repayment is being requested. NHSC policy requires behavioral health providers to practice in a community-based setting that provides access to comprehensive behavioral health services. Accordingly, for those sites seeking to be assigned behavioral health NHSC participants, additional site information collected from an NHSC Comprehensive Behavioral Health Services Checklist will be used. NHSC sites that do not directly offer all required behavioral health services must demonstrate a formal affiliation with a comprehensive, community-based primary behavioral health setting or facility to provide these services.

Likely Respondents: Likely respondents include the following: Licensed primary care medical, dental, and mental and behavioral health providers who are employed or seeking employment, and are interested in serving underserved populations; health care facilities interested in participating in the NHSC and becoming an NHSC-approved service site; NHSC sites providing behavioral health care services directly, or through a formal affiliation with a comprehensive community-based primary behavioral health setting or facility providing comprehensive behavioral health services.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC LRP Application	8,200	1	8,200	1	8,200
Authorization for Disclosure of Loan Information Form	6,500	1	6,500	.10	650
Privacy Act Release Authorization Form	275	1	275	.10	27.5
Verification of Disadvantaged Background Form	600	1	600	.50	300
Private Practice Option Form	300	1	300	.10	30
NHSC Comprehensive Behavioral Health Services Checklist	4,000	1	4,000	.13	520
NHSC Site Application (including recertification)	3,700	1	3,700	.5	1,850
Total	23,575		23,575		11,577.50

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–20584 Filed 8–26–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Kids First Conflict Review.

Date: September 9, 2016.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015, (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 22, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–20558 Filed 8–26–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: High Throughput Screening.

Date: September 22, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Risk, Prevention, and Health Behavior AREA Review.

Date: September 23, 2016.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John H. Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435–0628, *newmanjh@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 22, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–20556 Filed 8–26–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0753]

Merchant Mariner Medical Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Merchant Mariner Medical Advisory Committee and its working groups will meet to discuss matters relating to medical certification determinations for issuance of licenses, certificates of registry, merchant mariners' documents, medical standards and guidelines for the physical qualifications of operators of commercial vessels, medical examiner education, and medical research. The meetings will be open to the public.

DATES: The Merchant Mariner Medical Advisory Committee and its working groups are scheduled to meet on Thursday, September 15, 2016 from 8 a.m. to 5:15 p.m. and Friday September 16, 2016, from 8 a.m. to 5:00 p.m. Please note that these meetings may adjourn early if the Committee has completed its business. These meetings will be held as scheduled subject to the finalization of meeting site arrangements. Anyone interested in attending the meeting may want to contact the Coast Guard before making their travel and hotel reservations. Please contact Mr. R. Sam Teague, listed in the **FOR FURTHER INFORMATION CONTACT** section to confirm that the meeting will be held on these dates or if the meeting has been re-scheduled.

ADDRESSES: The meetings will be held at the St. Louis City Center Hotel, 400 South 14th Street, St. Louis, Missouri 63103 (*http://www.stlouiscitycenterhotel.com/*). For further information about the meeting facilities, please contact the St. Louis City Center Hotel at (314) 231–5007.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Alternate Designated Federal Officer as soon as possible.

Instructions: To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee as listed in the "Agenda" section below. Written comments for distribution to Committee members must be submitted no later than September 8, 2016, if you want the Committee members to be able to review your comments before the meeting. You must include "Department of Homeland Security" and the docket number USCG–2016–0753. Written comments may be submitted using the Federal eRulemaking Portal: *http://www.regulations.gov.* For technical difficulties, contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005 issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* type USCG–2016–0753 in the "Search" box, press Enter and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. R. Sam Teague, Alternate Designated Federal Officer for the Merchant Mariner Medical Advisory Committee, 2703 Martin Luther King Jr. Ave. SE., Stop (7509), Washington, District of Columbia 20593–7509, telephone 202–372–1425, fax 202–372–8382 or *Ronald.s.teague@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* Title 5 United States Code Appendix. The Merchant Mariner Medical Advisory Committee Meeting is authorized by 46 United States Code 7115, as amended by section 210 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281), and advises the Secretary on matters related to (a) medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; (b) medical standards and guidelines for the physical qualifications of operators of commercial vessels; (c) medical examiner education; and (d) medical research.

Agenda

Day 1

The agenda for the September 15, 2016 meeting is as follows:

(1) Opening remarks from the Designated Federal Officer.

(2) Opening remarks from Coast Guard leadership.

(3) Roll call of Committee members and determination of a quorum.

(4) Swearing in of new Committee members.

(5) Introduction of new task(s) found in paragraph 7 below.

(6) Public comment period.

(7) Working Groups addressing the following task statements may meet to deliberate—

(a) Task statement 21, requesting recommendations on chiropractors conducting mariner medical exams.

(b) Task statement 22, requesting recommendations on mariner medical examinations of mariners prescribed the use of Marijuana.

(c) Task statement 23, requesting merchant mariner educational material on over the counter medications and stimulants.

(d) Task statement 24, requesting recommendations on appropriate diets and wellness for mariners while onboard merchant vessels.

(e) The Committee may receive new task statements from the Coast Guard, review the information presented on each issue, deliberate and formulate recommendations for the Department's consideration.

(8) Adjournment of meeting.

Day 2

The agenda for the September 16, 2016, meeting is as follows:

(1) National Maritime Center Brief.

(2) Marine casualty data analysis presentation.

(3) Continue work on task statements.

(4) Public comment period.

(5) By mid-afternoon, the Working Groups will report, and if applicable,

make recommendations for the full Committee to consider for presentation to the Coast Guard. The Committee may deliberate and vote on the Working Group's recommendations on this date. The public will have an opportunity to speak after each Working Group's Report before the full Committee takes any action on each report.

(6) Closing remarks/plans for next meeting.

(7) Adjournment of Meeting.

A public comment period will be held on September 15, 2016, from approximately 11:30 a.m.–12:00 p.m. and September 16, 2016, from approximately 2:15 p.m.–2:45 p.m. Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Additionally, public comment will be sought throughout the meeting as specific issues are discussed by the Committee. Contact Mr. R. Sam Teague as indicated in the **FOR FURTHER INFORMATION CONTACT** section of this document to register as a speaker.

Dated: August 24, 2016.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2016–20642 Filed 8–26–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0782]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee and its working groups will meet to discuss various issues related to the training and fitness of merchant marine personnel. The meetings will be open to the public.

DATES: The Merchant Marine Personnel Advisory Committee and its working groups are scheduled to meet on Tuesday, September 13, 2016, from 8 a.m. until 5:30 p.m., and the full Committee is scheduled to meet on Wednesday, September 14, 2016, from 8 a.m. until 5:30 p.m. Please note that these meetings may adjourn early if the Committee has completed its business. These meetings will be held as scheduled subject to the finalization of meeting site arrangements. Anyone interested in attending the meeting may want to contact the Coast Guard before making their travel and hotel reservations. Please contact Mr. R. Sam Teague, listed in the **FOR FURTHER INFORMATION CONTACT** section to confirm that the meeting will be held on these dates or if the meeting has been rescheduled.

ADDRESSES: The meetings will be held at the St. Louis City Center Hotel, 400 S. 14th St., St. Louis, Missouri, 63103 (*http://www.stlouiscitycenterhotel.com/*).

For further information about the meeting facilities, please contact the St. Louis City Center Hotel at (314) 231–5007. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Alternate Designated Federal Officer as soon as possible using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee as listed in the "Agenda" section below. Written comments for distribution to Committee members must be submitted no later than September 5, 2016, if you want Committee members to review your comments before the meeting. Written comments may be submitted using the Federal eRulemaking Portal at *http://www.regulations.gov*. For assistance with technical difficulties, contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document.

Instructions: You must include "Department of Homeland Security" and docket number USCG–2016–0782 in all written comments. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided. You may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov*, type USCG–2016–0782 in the "Search" box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. R. Sam Teague, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory Committee, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, District of Columbia, 20593–7509, telephone 202–372–1425, fax 202–372–8382 or *ronald.s.teague@uscg.mil*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, Title 5 United States Code Appendix.

The Merchant Marine Personnel Advisory Committee was established under authority of section 310 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014, Title 46, United States Code, section 8108, and chartered under the provisions of the Federal Advisory Committee Act, (Title 5, United States Code, Appendix). The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard on matters relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards and other matters as assigned by the Commandant. The Committee shall also review and comment on proposed Coast Guard regulations and policies relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards; may be given special assignments by the Secretary and may conduct studies, inquiries, workshops, and fact finding in consultation with individuals and groups in the private sector and with State or local governments; and shall advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

Agenda

DAY 1

The agenda for the September 13, 2016 meeting is as follows:

(1) The full Committee will meet briefly to discuss the working groups' business/task statements, which are listed under paragraph 3 (a)–(f) below.

(2) Public comment period.

(3) Working groups will separately address the following task statements which are available for viewing at *https://homeport.uscg.mil/merpac:*

(a) Task Statement 30, Utilizing military education, training and assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and National Certifications;

(b) Task Statement 58, Communication between external stakeholders and the mariner credentialing program, as it relates to the National Maritime Center;

(c) Task Statement 87, Review of policy documents providing guidance on the implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers rulemaking;

(d) Task Statement 89, Review and update of the International Maritime Organization's Maritime Safety Committee Circular MSC.1014, "Guidelines on Fatigue Mitigation and Management";

(e) Task Statement 90, Review of International Maritime Organization Model Courses Being Validated by the International Maritime Organization's Human Element, Training, and Watchkeeping Subcommittee; and

(f) Task Statement 94, Review the Merchant Marine Personnel Advisory Committee recommendations with a view to evaluating their current relevance.

(4) Reports of working groups. At the end of the day, the working groups will report to the full Committee on what was accomplished in their meetings. The full Committee will not take action on these reports on this date. Any official action taken as a result of these working group meetings will be taken on day 2 of the meeting.

(5) Public comment period.

(6) Adjournment of meeting.

DAY 2

The agenda for the September 14, 2016, full Committee meeting is as follows:

(1) Introduction;

(2) Swear in newly appointed Committee members;

(3) Remarks from Coast Guard Leadership;

(4) Designated Federal Officer announcements;

(5) Roll call of Committee members and determination of a quorum;

(6) Reports from the following working groups;

(a) Task Statement 30, Utilizing military education, training and assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and National Certifications;

(b) Task Statement 58, Communication between external stakeholders and the mariner credentialing program, as it relates to the National Maritime Center;

(c) Task Statement 87, Review of policy documents providing guidance on the implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers rulemaking;

(d) Task Statement 89, Review and update of International Maritime Organization's Maritime Safety Committee Circular MSC/Circ.1014, "Guidelines on Fatigue Mitigation and Management";

(e) Task Statement 90, Review of International Maritime Organization Model Courses Being Validated by the International Maritime Organization's Human Element, Training, and Watchkeeping Subcommittee;

(f) Task Statement 91, Merchant Mariner Credential Expiration Harmonization; and

(g) Task Statement 94, Review the Merchant Marine Personnel Advisory Committee recommendations with a view to evaluating their current relevance.

(6) Other items for discussion:

(a) Report on the Implementation of the 2010 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping;

(b) Report on National Maritime Center activities from the National Maritime Center Commanding Officer, such as the net processing time it takes for mariners to receive their credentials after application submittal;

(c) Report on Mariner Credentialing Program Policy Division activities, such as its current initiatives and projects;

(d) Report on International Maritime Organization/International Labor Organization issues related to the merchant marine industry; and

(e) Briefings about on-going Coast Guard projects related to personnel in the U.S. merchant marine.

(7) New Business:

(a) New task statement—"Firefighting Training for UTVs on Inland Service;

(b) New task statement—"Course Approval Requirements"; and

(c) New task statement—"Designated Examiner, Qualified Assessor and Designated Medical Examiner Verification Tool".

(8) Public comment period.

(9) Discussion of working group recommendations.

The Committee will review the information presented on each issue, deliberate on any recommendations presented by the working groups and approve/formulate recommendations. Official action on these recommendations may be taken on this date.

(10) Closing remarks/plans for next meeting.

(11) Adjournment of meeting.

A public comment period will be held during each Working Group and full Committee meeting concerning matters being discussed.

Public comments will be limited to 3 minutes per speaker. Please note that the public comment periods will end following the last call for comments. Please contact Mr. R. Sam Teague, listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Please note that the meeting may adjourn early if the work is completed.

Dated: 24 August 2016.

J. G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2016–20641 Filed 8–26–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of June 8, 2016.

DATES: *Effective Dates:* The accreditation and approval of Inspectorate America Corporation as commercial gauger and laboratory became effective on June 8, 2016. The next triennial inspection date will be scheduled for June 2019.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 4350 Oakes Rd., Suite 521 A, Davie, FL 33314, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR

151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
9	Density Determination.
12	Calculations.
17	Marine Measurement.

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–57	D 7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–58	D 5191	Standard Test Method For Vapor Pressure of Petroleum Products.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: August 22, 2016.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2016–20701 Filed 8–26–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2016–0051]

National Infrastructure Advisory Council

AGENCY: Department of Homeland Security.

ACTION: Committee management; notice of an open Federal Advisory Committee meeting.

SUMMARY: The National Infrastructure Advisory Council (Council) will meet Friday, September 16, 2016 at 1310 North Courthouse Road, Suite 300, Arlington, VA 22201. This meeting will be open to the public.

DATES: The National Infrastructure Advisory Council will meet on September 16, 2016 1:00 p.m.–4:00 p.m. EDT.

ADDRESSES: The meeting will be held at 1310 North Courthouse Road, Suite 300, Arlington, VA 22201. For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact the person listed under **FOR FURTHER INFORMATION, CONTACT** below as soon as possible.

The Council highly encourages public comment for its consideration and notes that it is listed as Item VI in the below meeting agenda. Written comments must be submitted no later than 8:30 a.m. EDT on September 16, 2016, in order to be considered by the Council during its meeting. Comments must be identified by "DHS–2016–0030," and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow "submitting written comments" instructions.
- *Email: NIAC@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (703) 235–9707.
- *Mail:* Ginger Norris, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0612, Washington, DC 20598–0607.

Instructions: All written submissions must include the words "Department of Homeland Security" and the docket number for this action. Written comments will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket and background documents, go to *www.regulations.gov.* Search "NIAC" for a list all relevant documents for your review. Members of the public may provide oral comments on agenda items and previous Council studies. All previous studies can be located at *www.dhs.gov/NIAC.* Any written comments recieved after 8:30a.m. EDT on September 16, 2016 will still be accepted and reviewed by the members, but not during the time of the meeting. In-person comments are limited to three minutes per speaker. Members of the public making comments must register with the NIAC Secretariat at the meeting location.

FOR FURTHER INFORMATION, CONTACT: Ginger Norris, National Infrastructure Advisory Council, Alternate Designated Federal Officer, Department of Homeland Security, (703) 235–2888.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. appendix. The Council shall provide the President, through the Secretary of Homeland Security, with advice on the security and resilience of the Nation's critical infrastructure sectors. In addition, the Council will (1) receive a final presentation on Water Resilience from its working group members and (2) deliberate and vote upon the Water Resilience Recommendations as appropriate. All presentations will be posted at least three working days prior to the meeting on the Council's public Web page—*www.dhs.gov/NIAC.*

Public Meeting Agenda

I. OPENING OF MEETING
II. ROLL CALL OF MEMBERS
III. OPENING REMARKS AND INTRODUCTIONS
IV. APPROVAL OF JUNE 2016 MEETING MINUTES
V. PRESENTATIONS ON FUTURE FOCUS STUDY TOPICS
VI. PUBLIC COMMENT
VII. DISCUSSION OF NEW NIAC BUSINESS
VIII. CLOSING REMARKS
IX. ADJOURNMENT

Dated: August 23, 2016.

Ginger Norris,

Designated Federal Officer for the National Infrastructure Advisory Council.

[FR Doc. 2016–20561 Filed 8–26–16; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5921–N–14]

Implementation of the Privacy Act of 1974, as Amended; Amended System of Records Notice, Single Family Insurance System (SFIS)

AGENCY: Office of Housing, HUD.

ACTION: Amended System of Records Notice.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a (e)(4)), as amended, the Department's Office of Housing proposes to amend and reissue a current system of records notice (SORN): Single Family Insurance System (SFIS). The amended notice improves details published in the **Federal Register** for the SORNs categories of individuals covered, categories of records, authority for maintenance, storage, safeguards, retention and disposal, system manager and address, notification procedures, records access, contesting records procedures, and records source categories. These sections are amended to reflect the current status of information pertaining to the system of records. The existing scope, objectives, and business processes in place for the program remain unchanged. The amended SORN deletes and supersedes the Single Family Insurance System, HUD/HS–10, published in the **Federal Register** on July 23, 1999 at 64 FR 40032. The updated notice will be included in the Department's inventory of SORNs.

DATES:

Effective Date: This notice action shall be effective immediately, which will become effective [30 days after publication of this notice in the **Federal Register**].

Comments Due Date: September 28, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington, DC 20410. Communications should refer to the above docket number and title. Faxed comments are not accepted. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Helen Goff Foster, Chief Privacy Officer/ Senior Agency Official for Privacy, 451 Seventh Street SW., Room 10139, Washington, DC 20410, telephone number 202–402–6836 (this is not a toll-free number). Individuals who are hearing- and speech-impaired may access this number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: This notice refines information published about the Single Family Insurance Systems SORN. This notice includes updated details about the notices name and location of the record system, the authority for and manner of its operations, the categories of individuals that it covers, the type of records that it contains, the sources of the information for the records, the routine uses made of the records, and the types of exemptions in place for the records. The notice also includes the business address of the HUD officials who will inform interested persons of how they may gain access to and/or request amendments to records pertaining to themselves. The Privacy Act places on Federal agencies principal responsibility for compliance with its provisions, by requiring Federal agencies to safeguard an individual's records against an invasion of personal privacy; protect the records contained in an agency system of records from unauthorized disclosure; ensure that the records collected are relevant, necessary, current, and collected only for their intended use; and adequately safeguard the records to prevent misuse of such information.

Pursuant to the Privacy Act and the Office of Management and Budget (OMB) guidelines, a report of this new system of records was submitted to OMB, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform as instructed by paragraph 4c of Appendix 1 to OMB Circular No. A–130, "Federal Agencies Responsibilities for Maintaining Records About Individuals," July 25, 1994 November 28, 2000.

Authority: 5 U.S.C. 552a; 88 Stat. 1896; 42 U.S.C. 3535(d).

Dated: August 16, 2016.

Helen Goff Foster,

Chief Privacy Officer/Senior Agency Official for Privacy.

System of Records No.:

HSNG.SF/HWAFS.01

SYSTEM NAME:

Single Family Insurance System (SFIS) A43—Insurance-in-force (IIF) database.

SYSTEM LOCATION:

The system is physically hosted at the HUD Information Technology Systems Production Data Center located at 2020 Union Carbide Drive, South Charleston, West Virginia 25303 and 4701 Forbes Blvd., Lanham, Maryland, 20706, or at the locations of the service providers under contract with HUD. Electronic records are stored at the VTL storage center South Charleston, West Virginia Data Center. External access is from the following addresses: Housing and Urban Development (HUD) workstations: 451 Seventh Street SW., Washington, DC 20410; 470 L'Enfant Plaza East, Room 3118, Washington, DC 20026; HUD's Atlanta Homeownership Center, Five Points Plaza, 40 Marietta Street, Atlanta, GA 30303; Denver Homeownership Center, UMB Plaza Building, 1670 Broadway, Denver, CO 80202; Philadelphia Homeownership Center, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107; Santa Ana Homeownership Center, Santa Ana Federal Building, 34 Civic Center Plaza, Room 7015, Santa Ana, CA 92701. See also HUD Regional Offices located in Seattle, WA; Atlanta, GA; Ft. Worth, TX; San Francisco, CA; Denver, CO; Boston, MA; Philadelphia, PA; Kansas City, KS; Chicago, IL; New York, NY (*see* Appendix II[1] for complete addresses), where records are accessible.

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[1] *http://portal.hud.gov/hudportal/documents/huddoc?id=append2.pdf.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors who assumed or obtained a mortgage insured under HUD Federal Housing Administration single family mortgage insurance programs. Mortgagors who had Federal Housing (FHA) mortgage insured loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the A43/SFIS system are as follows:

(1) *Insurance-in-Force (IIF) Records:* Single Family insurance-in-force records which include PII data pertaining to (Mortgagors) borrower's/co-borrower's and their spouses full names, Social Security numbers, property addresses, date of birth, race/ethnicity, gender/sex; case-level details on the endorsement of the loan to include status code, FHA case number, original mortgage amount, beginning of amortization date, originating lender, transaction records, initial and monthly mortgage insurance premiums (IMIP & MMIP).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 203, National Housing Act, Public Law 73–479; The National Housing Act (12 U.S.C. 1701 *et seq.*) and the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*); 24 CFR parts 202, 203, 206, 241 and 266. The Housing and Community Development Act of 1987, 42 U.S.C. § 3543, titled "Preventing fraud and abuse in Department of Housing and Urban Development programs" and enacted as part of the Housing and Community Development Act of 1987, which permits the collection of SSN.

PURPOSE(S):

Single Family Insurance System (SFIS) has been used to maintain IIF database, which contains accurate and detailed case information on FHA-insured single family properties. The IIF was initially loaded with information about several million active and terminated FHA cases in the single family mortgage insurance inventory. SFIS allows on-line access to FHA case information and is used to make inquiries and process actions on single family forward mortgages guaranteed by HUD. The system produces daily, weekly, monthly, quarterly, and annually reports upon request. The SFIS process begins with the endorsement of a case and continues through termination of the case and throughout the maintenance phase of post-termination cases. Online access to case information and reports is only available internally to HUD employees. The information in this system of records enables FHA to operate the single family mortgage insurance program (*e.g.,* maintain data on the endorsement of single family loans and loan guarantees); record and calculate the collection of upfront and periodic mortgage insurance premiums (UFMIP and Periodic MIP); refund the unearned portion of the UFMIP's to homeowners; and respond to inquiries regarding insured mortgages. The Department utilizes its Distributive Shares and Refund System (DSRS) to authorize payment of the UFMIP refunds and SFIS system to maintain schedules showing the remaining amount of the UFMIP credit available each month.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

In addition to those disclosures generally permitted under 5 U.S.C. 522a(b) of the Privacy Act, other routine uses may include:

(1) To appropriate agencies, entities, and persons to the extent such disclosures are compatible with the purpose for which the records in this system were collected, as set forth by Appendix I, HUD's Routine Use Inventory Notice,[2] published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape/disc/drum. No hard copy records are maintained by SFIS that require storage. Electronic records are stored on DASD—Direct Access Storage Device and Virtual Tape Library (VTL).

RETRIEVABILITY:

Records are retrieved by name, co-borrower name, Social Security Number, property address, home address, and FHA Case number.

SAFEGUARDS:

Automated records are maintained in secured areas. Access is limited to authorized personnel. Access to the system is granted through a user ID and password. Users are required to sign a Rules of Behavior before accessing the system.

RETENTION AND DISPOSAL:

Records are held in accordance with HUD's Records Disposition Schedules Handbook (2225.6), Appendix 20 (Single Family Home Mortgage Insurance Program Records) and Appendix 21 (Financial Management Information Systems). Current retention periods for Single Family Case files are twelve years after close of the calendar year in which endorsed. Electronic records are maintained and destroyed as instructed by guidelines outlined in HUD's IT Security Handbook (2400.25), pursuant to NIST Special Publication 800–88 "Guidelines for Media Sanitization."

SYSTEM MANAGER(S) AND ADDRESS:

Branch Chief, Single Family Insurance Operations Division, Department of Housing and Urban Development, 470 East L'Enfant Plaza SW., Room 3118, Washington, DC 20410.

NOTIFICATION AND RECORD ACCESS PROCEDURES:

For Information, assistance, or inquiries about the existence of records contact Helen Goff Foster, Chief Privacy Officer/Senior Agency Official for Privacy, 451 Seventh Street SW., Room 10139, Washington, DC 20410, telephone number 202–402–6836. When seeking records about yourself from this system of records or any other HUD system of records, your request must conform with the Privacy Act regulations set forth in 24 CFR part 16. You must first verify your identity by providing your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. In addition, your request should:

(1) Explain why you believe HUD would have information on you.

(2) Identify which HUD office you believe has the records about you.

(3) Specify when you believe the records would have been created.

(4) Provide any other information that will help the Freedom of Information Act (FOIA) staff determine which HUD office may have responsive records.

If you are seeking records pertaining to another living individual, you must obtain a statement from that individual certifying their agreement for you to access their records. Without the above information, the HUD FOIA Office may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting contents of records and appealing initial denials appear in 24 CFR part 16, Procedures for Inquiries. Additional assistance may be obtained by contacting the Department's Chief Privacy Officer/Senior Agency Official for Privacy, 451 Seventh Street SW., Room 10139, Washington, DC 20410, or the HUD Departmental Privacy Appeals Officers, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10110, Washington, DC 20410.

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[2] *http://portal.hud.gov/hudportal/documents/huddoc?id=routine_use_inventory.pdf.*

RECORD SOURCE CATEGORIES:

Record Source categories are obtained from lenders who enter information into HUD's FHA Connection and/or submitted through the HUD Homeownership Centers who endorse loans using HUD's Computerized Homes Underwriting Management System (CHUMS) System, which transmits information to SFIS.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2016–20695 Filed 8–26–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5913–N–20]

60-Day Notice of Proposed Information Collection: Multifamily Mortgagee's Application for Insurance Benefits

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 28, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Alabama Brumskine, Accountant, Multifamily Claims Branch, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone number 202–402–3472. (This is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Colette Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Mortgagee's Application for Insurance Benefits.

OMB Approval Number: 2502–0419.

Type of Request: Extension of currently approved collection.

Form Number: Form HUD 2747, Application for Insurance Benefits, Multifamily Mortgage.

Description of the need for the information and proposed use: A lender with an insured multifamily mortgage pays an annual insurance premium to the Department. When and if the mortgage goes into default, the lender may elect to file a claim for insurance benefits with the Department. A requirement of the claims process is the submission of an application for insurance benefits. Form HUD 2747, Mortgagee's Application for Insurance Benefits (Multifamily Mortgage), satisfies this requirement.

Respondents (i.e. affected public): Not-for -profit institutions, State, local or Tribal Government.

Estimated Number of Respondents: 110.

Estimated Number of Responses: 110.

Frequency of Response: Occasion.

Average Hours per Response: 9.

Total Estimated Burden: 990.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 18, 2016.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2016–20698 Filed 8–26–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5913–N–22]

Notice of Proposed Information Collection: The Housing Counseling Federal Advisory Committee Membership Application

AGENCY: Office of the Assistant Secretary for Housing, Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 28, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Office, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 94176; telephone 202/402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed form(s) or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339).

FOR FURTHER INFORMATION CONTACT: Virginia Holman, Housing Program Specialist, Office of Housing Counseling, Office of Outreach and Capacity, U.S. Department of HUD, 600 East Broad Street, Richmond, VA 23219, telephone (804) 822–4911. This is not a toll free number. Persons with hearing or speech impairments may access this number through TTY by calling the tool-free Federal Relay Service at (800–877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Holman.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

A. Overview of Information Collection

Title of Proposal: Membership Application for the Housing Counseling Federal Advisory Committee.

OMB Control Number: 2502–0606.

Form Number: HUD–90005 HCFAC.

Description of the need for the information and proposed use: The Housing Counseling Federal Advisory Committee (HCFAC) was created under the Dodd-Frank “Expand and Preserve Homeownership through Counseling Act” Public Law 111–203, title XIV, § 1441, July 21, 2010, 124 Stat. 2163 (Act), 42 U.S.C. 3533(g) to provide strategic planning and policy guidance to HUD on housing counseling issues. The Membership Appication will be use to select the members of the HCFAC.

Respondents: (*i.e.*, affected public): Not for profit institutions.

Estimated Number of Respondents: 150.

Estimated Number of Responses: 150.

Frequency of Responses: Occasion or as needed.

Average Hours per Response: 90%.

Total Estimated Burden: 168 hours.

Status of the proposed information collection: This is an existing collection.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following. (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarify of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 19, 2016.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing, Associate Deputy Federal Housing Commissioner.

[FR Doc. 2016–20697 Filed 8–26–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2016–N111; FXES11130200000–167–FF02ENEH00]

Draft Safe Harbor Agreement Amendment and Application for an Enhancement of Survival Permit for the Phoenix Reach of the Rio Salado Environmental Restoration Project

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: The City of Phoenix (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an amendment to their enhancement of survival permit pursuant to the Endangered Species Act (Act), as amended. The requested amendment would authorize incidental take of the yellow-billed cuckoo as a result of operation and maintenance activities associated with the Rio Salado Project. We invite the public to review and comment on the permit application and the associated draft safe harbor agreement amendment (amendment).

DATES: To ensure consideration, written comments must be received on or before September 28, 2016.

ADDRESSES: *Obtaining Documents*

- *Internet:* You may obtain copies of the documents on the Service's Web site at *http://www.fws.gov/arizonaes/*.
- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 9828 North 31st Avenue, #C3, Phoenix, Arizona 85051–2517 (602–242–0210). You may also obtain a copy by telephone request to the Field Supervisor.
- *In-Person:* Copies of the application, draft amendment, or other related documents are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
  - ○ U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 6034, Albuquerque, NM 87201.
  - ○ Arizona Ecological Services Office, 9828 North 31st Avenue, #C3, Phoenix, Arizona 85051–2517 (602–242–0210).

Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, NM 87103, Attention: Branch Chief, Environmental Review.

Comment submission: You may submit written comments by one of the following methods:

- *Electronically: fw2_hcp_permits@fws.gov.*
- *By hard copy:* U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, North 31st Avenue, #C3, Phoenix, AZ 85021–4951; or by fax to 602–242–2513.

Please refer to permit number TE205294–1 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Nichole Engelmann, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021–4951, 602/242–0210 x237, or by email at *Nichole_Engelmann@fws.gov.*

SUPPLEMENTARY INFORMATION: The City of Phoenix (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an amendment to their enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*), as amended. The requested amendment, which will expire on June 8, 2061, to coincide with the expiration date of the original permit (50 years from the issuance date of June 8, 2011), would authorize incidental take of the yellow-billed cuckoo (*Coccyzus americanus*) as a result of operation and maintenance activities associated with the Rio Salado Project. We invite the public to review and comment on the permit application and the associated draft safe harbor agreement amendment (amendment).

The applicant plans to continue to conduct operation and maintenance activities associated with the Rio Salado Project, including maintenance of vegetation, roads, trails, water delivery system, flood control capacity, and storm water facilities. The Rio Salado Project, Phoenix Reach, is a cooperative project between the applicant and the U.S. Army Corps of Engineers to restore, enhance, and maintain 595 acres of native riparian and wetland vegetation along the Salt River from 24th Street to 19th Avenue.

Section 9 of the Act prohibits the "taking" of threatened or endangered species. However, the Service, under limited circumstances, may issue permits to take threatened and endangered wildlife species when such taking is incidental to, and not the purpose of, otherwise lawful activities.

The Service has made a preliminary determination that the approval of the draft amendment and permit amendment application qualify for categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior implementing regulations at 43 CFR 46.205, 46.210, and 46.215.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act and its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 2016–20671 Filed 8–26–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket Nos. FWS–HQ–IA–2016–0107 and FWS–HQ–IA–2016–0079: FXIA16710900000–156–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of new permit applications; reopening comment period for previously announced permit applications.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities In this notice, we announce 8 new permit applications that we have received, and we reopen the comment period on 11 permit applications that we had previously announced for public comment.

DATES: We must receive comments or requests for documents on or before September 28, 2016.

ADDRESSES:

Submitting Comments: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on either Docket No. FWS–HQ–IA–2016–0107 for the applications discussed in section III.A. of **SUPPLEMENTARY INFORMATION** or Docket No. FWS–HQ–IA–2016–0079 for the applications discussed in section III.B. of **SUPPLEMENTARY INFORMATION**.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2016–0107; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803. (Make sure that you insert the correct docket number, either FWS–HQ–IA–2016–0107 or FWS–HQ–IA–2016–0079. The permit applications in either docket are described in **SUPPLEMENTARY INFORMATION** in III.A. and B.)

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, 703–358–2104 (telephone); 703–358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, "Delivering an Efficient, Effective, and Accountable Government," and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Wild Things Unlimited, Inc., Bozeman, MT; PRT–137719

The applicant requests a renewal of their permit to export salvaged hair samples collected from grizzly bears (*Ursus arctos horribilis*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Cienegas Ranches, Ltd., Del Rio, TX; PRT–92685B

The applicant requests a permit for interstate and foreign commerce, and to export and cull excess barasingha (*Rucervus duvaucelii*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Cienegas Ranches, Ltd., Del Rio, TX; PRT–92686B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Barasingha (*Rucervus duvaucelii*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Stanford University, Stanford, CA; PRT–04371C

The applicant requests a permit to import biological samples collected from wild specimens of black rhinoceros (*Diceros bicornis*) for the purpose of scientific research.

Applicant: Qin Yi Yu, Temple City, CA; PRT–95968B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Radiated tortoise (*Astrochelys radiata*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Florida State University—Robert K. Godfrey Herbarium, Tallahassee, FL; PRT–230539

The applicant requests the renewal of their permit to export and re-import nonliving museum/herbarium specimens of endangered and threatened species (excluding animals) previously legally accessioned into the permittee's collection for scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Smithsonian Institution, Washington, DC; PRT–96221B

The applicant requests a permit to export to Georg-August University, Goettingen, Germany, a single leaf from one individual tree of 28 species of *Melicope* spp., 6 species of *Myrsine* spp., 3 species of *Platydesma* spp., and 3 species of *Zanthoxylum* spp., collected from the wild in Hawaii. The export of these specimens is for purposes of scientific research on plant systematics, evolution, and biogeography. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Charles Butler, Mankato, MN; PRT–03232C

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

B. Reopening of Comment Period for Permit Applications (Docket No. FWS–HQ–IA–2016–0079)

On July 18, 2016, we published a **Federal Register** notice inviting the public to comment on 11 applications for permits to conduct certain activities with endangered species under Docket No. FWS–HQ–IA–2016–0079 (81 FR 46698). Due to an issue with viewing and submitting comments, we are now reopening the comment period to allow the public the opportunity to review information submitted by the applicants.

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA; PRT–88847B

The applicant requests a permit to import one female captive-bred Persian leopard (*Panthera pardus saxicolor*) from Tierpark-Nordhorn gGmbH, Nordhorn, Germany, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: SeaWorld, San Antonio, TX; PRT–96334B

The applicant requests a permit to export one male captive-born Palawan peacock pheasant (*Polyplectron napoleonis*) for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: Pamela Plotkin, College Station, TX; PRT–43484B

The applicant requests reissuance of a permit to import biological samples from Costa Rica from wild-caught olive Ridley sea turtles (*Lepidochelys olivacea*) for the purpose of scientific research.

Applicant: A Walk on the Wild Side, Canby, OR; PRT–93730B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Ring-tailed lemur (*Lemur catta*), leopard (*Panthera pardus*), African lion (*Panthera leo*), and tiger (*Panthera tigris*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: City of Saint Paul/Como Zoo, Saint Paul, MN; PRT 89851B and 89852B

The applicant requests a permit to import two captive-bred snow leopards (*Uncia uncia*), for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: Out of Africa Wildlife Park, LLC, Camp Verde, AZ; PRT–760354

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Leopard (*Panthera pardus*) and snow leopard (*Uncia uncia*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: James Mercer, Carbondale, KS; PRT–98881B

The applicant requests a permit to import a sport-hunted trophy of two male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Marion Searle, Lake Forest, IL; PRT–99186B

Applicant: Kristian O'Meara, Powell, OH; PRT–99852B

Applicant: David Robertson, Lewistown, MT; PRT–94807B

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2016–20553 Filed 8–26–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2016–N059; FXES11130200000–167–FF02ENEH00]

Notice of Availability of a Draft Safe Harbor Agreement and Draft Environmental Assessment for Activities Within Austin, Bastrop, Burleson, Colorado, Lavaca, Lee, Leon, Milam, and Robertson Counties, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: Draft safe harbor agreement with assurances, draft environmental assessment, and permit application.

SUMMARY: This notice advises the public that the Texas Parks and Wildlife Department (TPWD; applicant) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed programmatic safe harbor agreement (agreement) between the applicant and the Service that would authorize incidental take resulting from voluntary activities to restore, maintain, enhance, or create habitat for the endangered Houston toad. The Service also announces the availability of a draft environmental assessment (EA) that has been prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act. We are making the permit application package, including the draft safe harbor agreement, and draft environmental assessment available for public review and comment.

DATES: We will accept comments received or postmarked on or before October 28, 2016. Any comments we receive after the closing date or not postmarked by the closing date may not be considered in the final decision on this action.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4012, Albuquerque, NM 87103, or send a request by email to *fw2_hcp_permits@fws.gov.*

Obtaining Documents

- *Internet:* You may obtain copies of the EA and draft Safe Harbor Agreement on the U.S. Fish and Wildlife Service's (Service) Web site at *http://www.fws.gov/southwest/es/AustinTexas/.*
- *U.S. Mail:* A limited number of CD–ROM and printed copies of the EA and draft Safe Harbor Agreement are available, by request, from the Field Supervisor, by mail at the Austin Ecological Services Field Office, 1071 Burnet Road, Suite 200, Austin, TX 78758; by phone at 512–490–0057; or by fax at 512–490–0974. Please note that your request is in reference to the draft Safe Harbor Agreement for the Houston toad.
- *In-Person:* Copies of the EA and draft Safe Harbor Agreement are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
  - ○ U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 6034, Albuquerque, NM 87102.
  - ○ U.S. Fish and Wildlife Service, 1071 Burnet Road, Suite 200, Austin, TX 78758.

Comment submission: You may submit comments by one of the following methods.

- ○ *U.S. Mail:* U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 1071 Burnet Road, Suite 200, Austin, TX 78758; by phone at 512–490–0057; or by fax at 512–490–0974.
- ○ *Electronically: fw2_hcp_permits@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd, Suite 200, Austin, TX 78758; by telephone 512–490–0057; or by facsimile 512–490–0974. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: This notice advises the public that the TPWD has applied to the Service for an enhancement of survival permit pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* Act). The permit application includes a proposed programmatic safe harbor agreement (agreement) between the applicant and the Service for a period of 30 years. The proposed agreement will authorize incidental take during voluntary activities to restore, maintain, enhance, or create habitat for the endangered Houston toad (*Anaxyrus* [=*Bufo*] *houstonensis*). The Service also announces the availability of a draft environmental assessment that has been prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.;* NEPA). We are making the permit application package, including the draft safe harbor agreement, and draft Environmental Assessment available for public review and comment.

Background

Under a safe harbor agreement, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Endangered Species Act. Safe harbor agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to increased property use restrictions as a result of increased target species abundance due to their efforts to improve conditions for listed species on their property. Application requirements and issuance criteria for enhancement of survival permits through safe harbor agreements are found in 50 CFR 17.22 and 17.32.

Proposed Action

The proposed action involves the issuance of a section 10(a)(1)(A) enhancement of survival permit (permit) by the Service to the applicant and approval of the proposed programmatic safe harbor agreement to facilitate recovery activities for the benefit of the federally listed endangered Houston toad on non-Federal lands within the current known range of the species. The requested term of the permit is 30 years. Landowners enrolled under the Agreement would implement conservation activities to benefit the endangered Houston toad and in turn receive assurances consistent with the Safe Harbor Agreement Policy, as amended (64 FR 32717 and 69 FR 24084) and related implementing regulations (50 CFR 13 and 17). Non-Federal landowners within Austin, Bastrop, Burleson, Colorado, Lavaca, Lee, Leon, Milam, and Robertson Counties, Texas, could be enrolled under the agreement, if finalized, by entering into a cooperative agreement with the applicant.

The cooperative agreement would include: (1) A map of the property and its legal location; (2) the portion of the property to be enrolled and its acreage; (3) a description of the existing structures and habitat types that occur on the portion of the property to be enrolled, including accurate descriptions of vegetation, water features, and soil types; and (4) a detailed account of conservation activities to be undertaken on the portion of the property to be enrolled. After signing a cooperative agreement, landowners would receive a certificate of inclusion to document the landowners' participation in the agreement and convey incidental take authorization from the applicant to certificate recipients. The applicant would be responsible for annual monitoring and reporting related to implementation of the agreement and cooperative agreements, and fulfillment of their provisions.

We have worked with the applicant to design conservation activities expected to have a net conservation benefit to the Houston toad within the nine Texas counties to be covered under this proposed agreement; however, landowners would not have to conduct every activity in this list in order for their actions to have a net conservation benefit on Houston toads. These conservation activities include: (1) Brush management to create desired understory conditions; (2) forest enhancement/restoration to create favorable canopy conditions; (3) prescribed burning to restore, create, and maintain desired understory and ground cover conditions; (4) removal of sod-forming grasses and restoration of native ground cover; (5) enhancement of existing breeding ponds to provide habitat for breeding adults and emerging toadlets; (6) removal of ponds, where it would be beneficial to do so; (7) control of red imported fire ants to maximize successful toadlet emergence from ponds; (8) creation of new breeding ponds; (9) headstarting and/or reintroduction of captively-bred Houston toads; and (10) release and translocation of wild-caught Houston toads.

These conservation activities are expected to: (1) Enhance Houston toad foraging and hibernating habitat; (2) create and enhance Houston toad breeding and toadlet emergence habitat; (3) facilitate Houston toad dispersal through the creation and enhancement of habitat linkages throughout the species' range; (4) increase Houston toad population numbers through headstarting and reintroduction; and (5) facilitate viable, self-sustaining Houston toad subpopulations.

Take, as defined by the Act, means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Incidental take is defined by the Act as take that is "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." The incidental take of toads may occur from: (1) Habitat management actions conducted in accordance with the conservation activities in the Agreement, (2) ongoing land use activities that may have an increased chance of taking a toad if toad numbers increase, as expected, and (3) cessation of the conservation activities if enrolled landowners exercise their option to return the property to its baseline condition, or pre-enrollment condition, as provided for in the final Safe Harbor Agreement Policy (64 FR 32717 and 69 FR 24084).

Alternative

We considered one alternative to the proposed action as part of the Environmental Assessment process—the No Action Alternative. Under the No Action Alternative, a coordinated effort to conserve Houston toads on non-Federal properties using a single programmatic safe harbor agreement and enhancement of survival permit would not occur. Houston toad conservation efforts could take place through the actions of individual landowners without the assurances that a safe harbor agreement would provide. However, it is likely that many landowners would not feel comfortable participating in conservation activities on their properties to enhance habitat for a federally endangered species without coverage for their activities under the Act or assurances that they could eventually take their properties back to their baseline conditions. Therefore, many landowners might not undertake beneficial actions for the Houston toad on their properties because they would be fearful of attracting an endangered species and increasing their liability under the Act. Conservation efforts for the species would primarily occur within the areas already being managed for the Houston toad within Bastrop County, Texas, with little participation of landowners in other areas of the species' range.

Next Steps

We will evaluate the proposed safe harbor agreement, associated documents, and comments we receive to determine whether the requirements of sections 10(a) and 10(c) of the Endangered Species Act, the Act's implementing regulations at 50 CFR 17.22 (regulations that pertain to safe harbor agreements and endangered species), and NEPA have been met. If we determine that the requirements have been met, we will issue an enhancement of survival permit under section 10(a)(1)(A) of the Endangered Species Act to the applicant in accordance with the terms of the safe harbor agreement and specific terms and conditions of the authorizing permit. We will not make our final decision until after the end of the 60-day comment period and will fully consider all comments received during the comment period.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representative or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Benjamin N. Tuggle,

Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 2016–20714 Filed 8–26–16; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDT000000.L11200000.DD0000.241A.00; 4500069133]

Notice of Public Meeting, Twin Falls District Resource Advisory Council, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA), the Federal Advisory Committee Act of 1972 (FACA), and the Federal Lands Recreation Enhancement Act of 2004 (FLREA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Twin Falls District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Twin Falls District RAC will meet September 14, 2016 at the Twin Falls District BLM Office, 2878 Addison Ave. E., Twin Falls, Idaho, 83301. The meeting will begin at 9:00 a.m. and end no later than 3:45 p.m. The public comment period will take place from 9:15 to 9:45 a.m.

FOR FURTHER INFORMATION CONTACT: Heather Tiel-Nelson, Twin Falls District, Idaho, 2536 Kimberly Road, Twin Falls, Idaho, 83301, (208) 736–2352.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho. During the September 14th meeting, there will be travel management planning training, an overview of the 2016 fire season and the 40th anniversary of the Federal Land Policy Management Act along with field office updates. Additional topics may be added and will be included in local media announcements.

More information is available at *www.blm.gov/id/st/en/res/resource_advisory.3.html.* RAC meetings are open to the public.

Authority: 43 CFR 1784.4–1.

Michael C. Courtney,

BLM Twin Falls District Manager.

[FR Doc. 2016–20719 Filed 8–26–16; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–BSD–FEES–21785; PX.XBSAD0096.00.1]

Proposed Information Collection; The Interagency Access Pass and Senior Pass Application Processes

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This information collection is scheduled to expire on May 31, 2017. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

DATES: You must submit comments on or before October 28, 2016.

ADDRESSES: Send your comments on the IC to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive (MS–242), Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please reference OMB Control Number 1024–0252 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Brooke Linford by email at *brooke_linford@nps.gov,* or at (202) 513–7139 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The America the Beautiful—National Parks and Federal Recreation Lands Pass Program covers recreation opportunities on public lands managed by four Department of the Interior agencies—the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, and the Bureau of Reclamation—and by the Department of Agriculture's U.S. Forest Service. The passes provide visitors an affordable and convenient way to access Federal recreation lands. The pass program's proceeds are used to improve and enhance visitor recreation services. Two of the available passes—Interagency Access Pass and Interagency Senior Pass—require documentation and are the bases for this information collection.

The Interagency Access Pass is a free, lifetime pass issued to citizens or residents who are domiciled in the United States, regardless of age, and who have a medical determination and documentation of permanent disability. You can obtain an Access Pass in person, with proper documentation, from a participating Federal recreation site or office. Access Passes may also be obtained via mail order. Mail-order applicants for the Access Pass must submit a completed application, proof of residency, and documentation of permanent disability, and pay the document processing fee of $10 to obtain a pass through the mail.

If a person arrives at a recreation site and claims eligibility for the Interagency Access Pass, but cannot produce any documentation, that person must read, sign, and date a Statement of Disability Form in the presence of the agency officer issuing the Interagency Access Pass. If the applicant cannot read and/or sign the form, someone else may read, date, and sign the statement on his/her behalf in the applicant's presence and in the presence of the agency officer issuing the Interagency Access Pass.

The Interagency Senior Pass is a lifetime pass issued to U.S. citizens or permanent residents who are 62 years or older. There is a $10 fee for the Senior Pass. You can buy a Senior Pass in person from a participating Federal recreation site or office, online or by mail order. There is an additional document processing fee of $10 to obtain a Senior Pass online or through the mail. Online and mail-order applicants must submit a completed application and proof of residency and age, and pay $20 for the pass fee and processing fee.

Agency Web sites provide information on the passes and acceptable documentation. All documentation submitted in person, online or through the mail is returned to the applicant, removed from servers or destroyed.

II. Data

OMB Control Number: 1024–0252.

Title: The Interagency Access Pass and Senior Pass Application Processes.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Individuals.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of annual responses	Completion time per response	Total annual burden hours
Interagency Access Pass (in person)	76,000	76,000	5 minutes	6,333
Interagency Access Pass (by mail)	4,000	4,000	10 minutes	667
Interagency Senior Pass (online)	5,000	5,000	10 Minutes	833
Interagency Senior Pass (by mail)	29,750	29,750	10 minutes	4,958
Totals	114,750	114,750		12,791

Estimated Annual Nonhour Burden Cost: $409,775. The estimated cost burden for applications submitted by mail (two photocopies and postage) is $0.66 per mail-in applicant, for a total of $22,275 ($0.66 × for 33,750 responses). In addition, there is a processing fee of $10.00 for each online and mail-in application, or a total of $387,500 ($10 × 38,750).

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 23, 2016.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–20602 Filed 8–26–16; 8:45 am]

BILLING CODE 4310–EH–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR08100000, 16XR0680A1, RY.1541CH20.60IR162]

Announcement of Requirements and Registration for a Prize Competition Seeking: Preventing Rodent Burrows in Earthen Embankments

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, in collaboration with the U.S. Army Corps of Engineers, State of Colorado Department of Natural Resources Dam Safety Branch, and various water irrigation districts that operate Federal canals, is seeking new ideas for cost-effective ways to prevent rodents from burrowing into the earthen embankments of dams, canals, and levees. These burrows cause seepage paths in the embankment system which can lead to structural failures that endanger water supplies, and cause property damage and loss of life. Many of the more traditional and "intuitive" methods have been tried with little success to date. We are hoping the Solver community can dig deeper than the rodents to find creative and effective solutions to this Challenge.

DATES: Listed below are the specific dates pertaining to this prize competition:

1. Submission period begins on August 29, 2016.
2. Submission period ends on October 11, 2016.
3. Judging period ends on December 7, 2016.
4. Winners announced by December 27, 2016.

ADDRESSES: The *Preventing Rodent Burrows in Earthen Embankments* Prize Competition will be posted on the following crowd-sourcing platforms where Solvers can register for this prize competition:

1. The Water Pavilion located at the InnoCentive Challenge Center: *https://www.innocentive.com/ar/challenge/browse.*
2. U.S. Federal Government Challenge Platform: *www.Challenge.gov.*

InnoCentive, Inc. is administering this challenge under a challenge support services contract with the Bureau of Reclamation. *Challenge.gov* will re-direct the Solver community to the InnoCentive Challenge Center as the administrator for this prize competition. Additional details for this prize competition, including background information, figures, and the Challenge Agreement specific for this prize competition, can be accessed through either of these prize competition web addresses. The Challenge Agreement contains more details of the prize competition rules and terms that Solvers must agree with to be eligible to compete.

FOR FURTHER INFORMATION CONTACT: Challenge Manager: Dr. David Raff, Science Advisor, Bureau of Reclamation, (202) 513–0516, *draff@usbr.gov;* Dr. Jessica Torrey, (303) 445–2376, *jtorrey@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation (Reclamation) is announcing the following prize competition in compliance with 15 U.S.C. 3719, Prize Competitions.

Prize Competition Summary: Is there a way to stop and prevent rodents from burrowing into earthen embankments of dams, canals, and levees?

Rodent burrows can fill with water when the water levels change, creating seepage paths which can lead to internal erosion in embankments resulting in the potential for catastrophic failure. Embankment failures can cause property damage, cause loss of life, and interrupt crucial deliveries of water in the West and across the nation.

Trapping or baiting rodents on earthen embankments are short term remedies, and experience has shown that within a short time, the rodents inevitably return. Annual programs of rodent removal over thousands of miles of earthen embankment are cost prohibitive and only marginally successful. Solvers are being asked for creative, cost effective, long-term solutions to this very real and serious problem.

A solution is being pursued through a prize competition because we find ourselves often wondering if someone, somewhere, may know a better way of detecting internal erosion in embankments than the methods we currently use. The prize competition approach enables us to reach a new source of potential Solvers to generate new and timely solutions that would not likely be accomplished by standard contractual methods.

This is an Ideation Challenge, which has the following unique features:

- There is a guaranteed award. The awards will be paid to the best submission(s) as solely determined by the Seeker. The total payout will be $20,000, with at least one award being no smaller than $5,000 and no award being less than $2,500.
- All intellectual property rights, if any, in the idea or concept demonstrated by the proposed solution will remain with the Solver. upon submission of a proposed solution to this challenge, each Solver grants to the Bureau of Reclamation, on behalf of the U.S. Government, a royalty-free, perpetual, irrevocable, non-exclusive license and right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so. Notwithstanding granting the Seeker a perpetual, non-exclusive license for the proposed solution, the Solver retains ownership of the idea or concept demonstrated by the proposed solution.
- The Seeker believes there might be a potential for future collaboration with awarded Solver(s), although such collaboration is not guaranteed. The Seeker may also encourage Solver(s) to further develop and test their winning submissions through subsequent round(s) of competition. Solvers should make it clear if they have the ability for subsequent design and development phases and would be willing to consider future collaborations and/or subsequent competitions.

Technical Requirements. Any proposed solution should address the following Technical Requirements. Solvers need not meet every technical requirement with one new concept. Concepts that meet some requirements, but not all, will still be eligible for competing for an award. Innovative solutions in one of the necessary components may be considered for partial awards. The Solution should:

1. Reduce by 95% the ability of rodents to burrow in the embankments.
2. Be able to be applied at discrete, remote locations where power is not available.
3. Work reliably for a minimum of 5 years without interruption or major repairs.
4. Require maintenance labor activities no more than every 6 months.
5. Be cost effective to treat or cover earthen embankments that are 1 mile long, but be scalable to treat embankments that are 50 miles long.

It would be nice to have (not as important as the requirements above, but would add value to a submission) a Solution that:

6. Is effective in temperature extremes from 0 to 120 degrees Fahrenheit.
7. Does not kill rodents.
8. Is applicable in both urban areas as well as rural areas.

The Solution should not:

1. Be a review of every type of rodent control tried in the past.
2. Negatively impact the structural integrity of the embankment or any of its appurtenant features.
3. Promote the establishment of a new predator that will harm other non-target species.
4. Contaminate water in or behind the embankment.
5. Displace the rodents from one area of the embankment to another area.
6. Create a favorable rodent habitat or supply food and shelter to the rodents.
7. Exterminate or harm non-target species such as humans, pets, or endangered species.

Solutions that meet the technical requirements will also be judged on logistical feasibility, applicability to varying environments, readiness, overall costs, and scalability.

Project Deliverables: This is an Ideation Challenge that requires only a written proposal to be submitted. At least one solution will be deemed the winner. The submitted proposal should include the following:

1. Detailed description of a method and/or device. The Solver must describe with a high level of technical detail as to how the system would meet or not meet each of the "should have" and "nice to have" attributes in the Technical Requirements described above. The Solver should expect that their submittal will be reviewed by experts in the field of biology and those with relevant operations, maintenance, and engineering expertise.
2. Rationale as to why the Solver believes that the proposed method and/or device will work. This rationale should address each of the Technical Requirements and should be supported with relevant examples.
3. Drawings/sketches of any proposed system, if appropriate.
4. Sufficient data to support claims, if available.
5. List of equipment required and rough cost estimate.
6. Detail on how the solution could be developed and tested in the field.
7. Your area of expertise/qualifications that allow you to develop the idea.

Submitted proposals should not include any personally identifiable information that the Solver does not want to make public, or any information that the Solver may consider as their own Intellectual Property which they do not want to share.

Judging: After the Challenge deadline, the Seeker will evaluate the submissions and make a decision with regards to the winning solution(s). All Solvers that submitted a proposal will be notified on the status of their submissions. Decisions by the Seeker cannot be contested.

Submitted solutions will be evaluated by a Judging Panel composed of scientists, engineers, and other related technical experts. The Judging Panel will also have consultation access to technical experts outside of their expertise, as determined necessary, to evaluate specific submissions.

Eligibility Rules: To be able to win a prize under this competition, an individual or entity must:

1. Agree to the rules of the competition (15 U.S.C. 3719(g)(1));
2. Be an entity that is incorporated in and maintains a primary place of business in the United States, or (b) in the case of an individual, a citizen or permanent resident of the United States (15 U.S.C. 3719(g)(3));
3. Not be a Federal entity or Federal employee acting within the scope of their employment; (15 U.S.C. 3719(g)(4));

4. Assume risks and waive claims against the Federal Government and its related entities (15 U.S.C. 3719(i)(1)(B)); and,

5. Not use Federal facilities, or consult with Federal employees *during the competition* unless the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

The following individuals or entities are not eligible regardless of whether they meet the criteria set forth above:

1. Any individual who employs an evaluator on the Judging Panel or otherwise has a material business relationship or affiliation with any Judge.

2. Any individual who is a member of any Judge's immediate family or household.

3. The Seeker, participating organizations, and any advertising agency, contractor or other individual or organization involved with the design, production, promotion, execution, or distribution of the prize competition; all employees, representatives and agents thereof; and all members of the immediate family or household of any such individual, employee, representative, or agent.

4. Any individual or entity that uses Federal funds to develop the proposed solution now or any time in the past, unless such use is consistent with the grant award, or other applicable Federal funds awarding document. NOTE: Submissions that propose to improve or adapt existing federally funded technologies for the solution sought in this prize competition are eligible.

Consultation: Geotechnical engineers, biologists, facility managers, and technical specialists from across Reclamation and U.S. Army Corps of Engineers were consulted in identifying and selecting the topic of this prize competition. Direct and indirect input from various stakeholders and partners associated with the asset management program efforts by these agencies were also considered.

Public Disclosure: InnoCentive, Inc. is administering this challenge under a challenge support services contract with Reclamation. Participation is conditioned on providing the data required on InnoCentive's online registration form. Personal data will be processed in accordance with InnoCentive's Privacy Policy which can be located at *http://www.innocentive.com/privacy.php.* Before including your address, phone number, email address, or other personal identifying information in your proposal, you should be aware that the Seeker is under no obligation to withhold such information from public disclosure, and it may be made publicly available at any time. Neither InnoCentive nor the Seeker is responsible for human error, theft, destruction, or damage to proposed solutions, or other factors beyond its reasonable control. Solver assumes any and all risks and waives any and all claims against the Seeker and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

Dated: August 22, 2016.

David Raff,

Science Advisor.

[FR Doc. 2016–20497 Filed 8–26–16; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–557]

Aluminum: Competitive Conditions Affecting the U.S. Industry Submission of Questionnaire for OMB Review

AGENCY: United States International Trade Commission.

ACTION: Notice of submission of request for approval of a questionnaire to the Office of Management and Budget. This notice is being given pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

*Purpose of Information Collection:*The information requested by the questionnaire is for use by the Commission in connection with investigation No. 332–557, *Aluminum: Competitive Conditions Affecting the U.S. Industry.* The investigation was instituted under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) at the request of the House Committee on Ways and Means (the Committee). The Commission expects to deliver its report to the Committee by June 26, 2017.

Summary of Proposal:

(1) *Number of forms submitted:* 1.

(2) *Title of form:* Unwrought and Wrought Aluminum Questionnaire.

(3) *Type of request:* New.

(4) *Frequency of use:* Industry questionnaire, single data gathering, scheduled for 2016.

(5) *Description of respondents:* U.S. producers of unwrought and wrought aluminum.

(6) *Estimated number of questionnaires to be mailed:* 280.

(7) *Estimated total number of hours to complete the questionnaire per respondent:* 12 hours.

(8) Information obtained from the questionnaire that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment: Copies of the questionnaire and supporting documents may be obtained from project leader Karl Tsuji (*karl.tsuji@usitc.gov* or 202–205–3434) or deputy project leader Mihir Torsekar (*mihir.torsekar@usitc.gov* or 202–205–3350). Comments about the proposal should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Docket Librarian. All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Kirit Amin, Chief Information Officer, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

General information concerning the Commission may also be obtained by accessing its Internet address (*https://www.usitc.gov*). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Secretary at 202–205–2000.

By order of the Commission.

Issued: August 23, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–20567 Filed 8–26–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[Docket No. OIP–0002]

Notice of Chief Freedom of Information Act Officer Council Meeting

AGENCY: Department of Justice.

ACTION: Notice of Chief FOIA Officer Council meeting.

SUMMARY: In accordance with the Freedom of Information Act (5 U.S.C. 552(k), DOJ announces the second

meeting of the Chief FOIA Officer Council. Additional details about the meeting will be announced on OIP's Web sites at: *https://www.justice.gov/oip.*

DATES: The meeting will be on September 15, 2016, at 10:00 a.m. EDT. You must register for the meeting by 5:00 p.m. EDT on September 7, 2016.

ADDRESSES: GSA Central Office, 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: OIP by mail at Department of Justice; Office of Information Policy; 1425 New York Avenue NW., Suite 11050, Washington, DC 20530–001, by telephone at 202–514–3642, or by email at *DOJ.OIP.FOIA@usdoj.gov* with the subject line: "Chief FOIA Officer Council."

SUPPLEMENTARY INFORMATION: Additional details about the meeting will be announced on OIP's Web sites at: *https://www.justice.gov/oip.* Additional Information: The Council welcomes the attendance of the public at this meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations, please indicate your requirements on the online registration form.

Dated: August 23, 2016.

Carmen L. Mallon,

Chief of Staff, Office of Information Policy.

[FR Doc. 2016–20612 Filed 8–26–16; 8:45 am]

BILLING CODE 4410–BE–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Intent To Renew the Bureau of Labor Statistics Data Users Advisory Committee

The Secretary of Labor is announcing the intent to renew a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Data Users Advisory Committee (the "Committee") is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic and government communities, on matters related to the analysis, dissemination, and use of the Bureau's statistics, on its published reports, and on gaps between or the need for new Bureau statistics.

The Committee will function solely as an advisory body to the BLS, on technical topics selected by the BLS.

The Committee is responsible for providing the Commissioner of Labor Statistics: (1) The priorities of data users; (2) suggestions concerning the addition of new programs, changes in the emphasis of existing programs or cessation of obsolete programs; and (3) advice on potential innovations in data analysis, dissemination and presentation. The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee will not exceed 20 members. Committee members are nominated by the Commissioner of Labor Statistics and approved by the Secretary of Labor. Membership of the Committee will represent a balance of expertise across a broad range of BLS program areas, including employment and unemployment statistics, occupational safety and health statistics, compensation measures, price indexes, and productivity measures; or other areas related to the subject matter of BLS programs. All committee members will have extensive research or practical experience using BLS data. The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Lisa Fieldhouse, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202–691–5025, email: *Fieldhouse.Lisa@bls.gov.*

Signed at Washington, DC, this 24th day of August 2016.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2016–20640 Filed 8–26–16; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will be submitting the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before September 28, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Alexandria, VA 22314, Suite 5067, or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRAComments@ncua.gov* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0004.

Type of Review: Revision of a previously approved collection.

Title: NCUA Call Report and Profile.

Form: NCUA Forms 5300 and 4501A.

Abstract: NCUA Form 5300, Call Report, is used to file quarterly financial and statistical data and NCUA Form 4501A, Credit Union Profile, is used to obtain non-financial data relevant to regulation and supervision such as the names of senior management and volunteer officials, and are reported through NCUA's on-line portal, Credit Unions Online. This information collection is being revised to remove data elements associated with the reporting of Credit Union Service Organizations (CUSO). In early 2016, reporting of CUSOs was conducted separately from the Call Report and Profile through the new CUSO Registry portal (OMB No. 3133–0149). To eliminate duplicate reporting and reduce the burden associated with this collection, NCUA is removing the CUSO identification section from the Call Report and reporting of CUSO usage from the Profile.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 144,504.

OMB Number: 3133–0032.

Type of Review: Extension of a previously approved collection.

Title: Records Preservation, 12 CFR part 749.

Abstract: Part 749 requires all federally insured credit unions (FICUs) to maintain a records preservation program. The program must be in writing and include a schedule for the storage and destruction of records and emergency contact information for employees, officials, regulatory offices, and vendors used to support vital records. The records preservation program requirement enables FICUs to reconstruct their vital records in the event records are destroyed by a catastrophe and facilitates restoration of vital member services.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 12,074.

OMB Number: 3133–0059.

Type of Review: Extension of a previously approved collection.

Title: Supervisory Committee Audits and Verifications, 12 CFR part 715.

Abstract: Part 715 prescribes the responsibilities of the supervisory committee to obtain an audit of the credit union and verification of member accounts. A supervisory committee audit is required at least once every calendar year covering the period since the last audit and to conduct a verification of members' accounts not less frequently than once every two years. The information is used by both the credit union and the NCUA to ensure through audit testing that the credit union's assets, liabilities, equity, income, and expenses exist, are properly valued, controlled and meet ownership, disclosure and classification requirements of sound financial reporting.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 38,693.

OMB Number: 3133–0114.

Type of Review: Extension of a previously approved collection.

Title: Payments on Shares by Public Units and Nonmembers.

Abstract: Under § 701.32, a Federal Credit Union may receive from public units and political subdivisions (as defined in § 754.1) and nonmember credit unions, payments on shares. Limitations on nonmember and public unit deposits in federally insured credit unions is 20 percent of their shares or $3 million, whichever is greater. The information collection requirements is for those credit unions seeking an exemption from the nonmember deposit limit must adopt a specific written plan concerning the intended use of those shares and submit along with their lending and investment policies to the NCUA Regional Director. NCUA uses this information to determine whether or not a particular credit union will be granted an exemption to the limit on nonmember and public unit deposits.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 82.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on August 24, 2016.

Dated: August 24, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–20649 Filed 8–26–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Contractor Profile

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: NCUA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a new collection of information, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Written comments should be received on or before October 28, 2016 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, Suite 5067; Fax No. 703–519–8579; or Email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–NEW.

Title: Contractor Profile.

Abstract: In January 2011, NCUA created the Office of Minority and Women Inclusion (OMWI), as mandated by sec. 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Act") (Pub. L. 111–203). As prescribed by sec. 342(c) of the Act, OMWIs shall develop and implement standards and procedures to ensure the fair inclusions and utilization of minorities, women, and minority-owned and women-owned business in all business and activities of the agency at all levels, including in procurement, insurance, and all types of contracts. NCUA has developed the Contractor Profile form that will be completed by a contractor to ensure the fair inclusion and utilization of minorities and women in the workforce of the contractor and, as applicable, subcontractor. The Contractor Profile form will include a series of questions covering a contractor's, and, as applicable, a subcontractor's diversity strategies, policies, recruitment, succession planning, and outreach. The information provided will be used by NCUA to determine if good faith efforts are met and to fulfill statutory requirements of the Act. Determinations are valid for a two-year period.

Type of Review: New collection.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated No. of Respondents: 50.

Estimated Annual Frequency: 1.

Estimated Annual No. of Responses: 50.

Estimated Burden Hours per Response: 0.75.

Estimated Total Annual Burden Hours: 38.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on August 24, 2016.

Dated: August 24, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–20650 Filed 8–26–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, September 13, 2016.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The two items are open to the public.

MATTERS TO BE CONSIDERED:

8780 Aircraft Accident Report—Runway Excursion During Landing, Delta Air Lines Flight 1086, Boeing MD–88, N909DL, New York, New York, March 5, 2015.

8628A Safety Study—An Assessment of the Effectiveness of the U.S. Coast Guard Vessel Traffic Service System.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Wednesday, September 7, 2016.

The public may view the meeting via a live or archived webcast by accessing a link under "News & Events" on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov.*

FOR MEDIA INFORMATION CONTACT: Terry Williams at (202) 314–6100 or by email at *terry.williams@ntsb.gov.*

Dated: August 25, 2016.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2016–20761 Filed 8–25–16; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0060]

Information Collection: NRC Form 237, Request for Access Authorization

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, "NRC Form 237, Request for Access Authorization."

DATES: Submit comments by September 28, 2016.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0050), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0060 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0060.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession ML16197A555.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, "NRC Form 237, Request for Access Authorization." The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 15, 2016 (81 FR 22321).

1. *The title of the information collection:* "NRC Form 237, Request for Access Authorization."
2. *OMB approval number:* 3150–0050.
3. *Type of submission:* Extension.
4. *The form number if applicable:* NRC Form 237.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* NRC contractors, subcontractors, licensee employees, employees of other government agencies, and other individuals who are not NRC employees.
7. *The estimated number of annual responses:* 350.
8. *The estimated number of annual respondents:* 350.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 70.
10. *Abstract:* NRC Form 237 is completed by NRC contractors,

subcontractors, licensee employees, employees of other government agencies, and other individuals who are not NRC employees who require an NRC access authorization.

Dated at Rockville, Maryland, this 23rd day of August, 2016.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–20563 Filed 8–26–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0280]

Information Collection: Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material."

DATES: Submit comments by September 28, 2016.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0062), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0280 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC 2015–0280. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2015–0280 on this Web site.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The supporting statement is available in ADAMS under Accession ML16222A303.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV*.

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material." The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 4, 2016, (81 FR 26836).

1. *The title of the information collection:* 10 CFR part 11, "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material."
2. *OMB approval number:* 3150–0062.
3. *Type of submission:* Extension.
4. *The form number if applicable:* N/A.
5. *How often the collection is required or requested:* On Occasion.
6. *Who will be required or asked to respond:* Employees (including applicants for employment), contractors, and consultants of NRC licensees and contractors whose activities involve access to, or control over, special nuclear material at either fixed sites or for transportation activities.
7. *The estimated number of annual responses:* 328 (326 reporting responses + 2 recordkeepers).
8. *The estimated number of annual respondents:* 2.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 81.9
10. *Abstract:* The NRC's regulations in part 11 of title 10 of the *Code of Federal Regulations* (10 CFR), establish requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. The specific part 11 requirements covered under this OMB clearance include requests for exemptions to part 11 requirements, amendments to security plans that require incumbents to have material access authorizations, access authorization cancellations. In addition, licensees must keep records of the names and access authorization numbers of certain individuals assigned to shipments of special nuclear material. The information required by 10 CFR part 11 is needed to establish control over and maintain records of who is properly authorized to safeguard and

have access to special nuclear material. Not knowing this information could cause harm to the public and national security.

Dated at Rockville, Maryland, this 23rd of August, 2016.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–20564 Filed 8–26–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0257]

Information Collection: NRC Form 277, Request for Visit

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, "NRC Form 277, Request for Visit."

DATES: Submit comments by September 28, 2016.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0051), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0257 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0257.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML16200A112.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, "NRC Form 277, Request for Visit." The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on March 31, 2016, (81 FR 18650).

1. *The title of the information collection:* NRC Form 277, Request for Visit.
2. *OMB approval number:* 3150–0051.
3. *Type of submission:* Extension.
4. *The form number if applicable:* NRC Form 277.
5. *How often the collection is required or requested:* As needed.
6. *Who will be required or asked to respond:* Licensees and NRC contractors.
7. *The estimated number of annual responses:* 60.
8. *The estimated number of annual respondents:* 60.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 10 hours.
10. *Abstract:* NRC Form 277 is completed by NRC contractors and licensees who have been granted an NRC access authorization and require verification of that access authorization and need-to-know due to (1) a visit to NRC (2) a visit to other contractors/licensees or government agencies in which access to classified information will be involved or (3) unescorted area access is desired.

Dated at Rockville, Maryland, this 23rd day of August, 2016.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–20562 Filed 8–26–16; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Vocational Report; OMB 3220–0141.

Section 2 of the Railroad Retirement Act (RRA) provides for payment of disability annuities to qualified employees and widow(ers). The establishment of permanent disability for work in the applicant's "regular occupation" or for work in any regular employment is prescribed in 20 CFR 220.12 and 220.13 respectively.

The RRB utilizes Form G–251, *Vocational Report,* to obtain an applicant's work history. This information is used by the RRB to determine the effect of a disability on an applicant's ability to work. Form G–251 is designed for use with the RRB's disability benefit application forms and is provided to all applicants for employee disability annuities and to those applicants for a widow(er)'s disability annuity who indicate that they have been employed at some time.

The RRB recently received short-term approval of a Request for Emergency Clearance from the Office of Management and Budget for this information collection. In response to that request the RRB received comments from 3 railroad labor organizations commenting on the RRB's action. The comments centered on the collection of information associated with the following items:

- Item 12, "Describe the essential duties of the position": Comments received preferred the use of the term "basic" rather than "essential" stating the use of "essential" duties "is subjective, and could mislead an employee to inadvertently fail to list something that may be significant to the Board's examiner."
- Item 13, "Describe the environmental conditions that the position exposes you to": Comments received preferred the use of the term "hazards" rather than "conditions" stating that the use of the term "conditions" may lead the employee respondent and the RRB claim examiners to different conclusions simply by changing the terms used, *i.e.,* "a hazard explains a present danger, or more importantly, a risk to the employee's life, health or safety. A condition, on the other hand, could be anything that either carries risk with it or is benign in nature."
- Item 14, "Indicate below the kind and amount of physical activity this job involved during a typical 8-hour workday": Comments received stated that many railroad operating employees do not have a routine day or typical work day and that the question does not adequately provide for employees "who are subject to duty periods of 12 hours."
- Item 15, "Has your employer made permanent adjustments to this job to accommodate you": Comments ranged from the question "asks an employee to speculate on the kind of accommodations an employer has made to accommodate them" to "employees may receive informal or temporary accommodations that do not rise to the level of a permanent accommodation." Additional comments expressed concern that RRB examiners may interpret non-permanent accommodations as an indicator that an employee may not have a disability.

RRB staff responded to the railroad labor organizations' comments, specifically with regard to:

- Item 12: Whereas it was acknowledged that the use of either term "essential" or "basic" can be subjective, the RRB decided to use the term "essential" to address any allegations that the RRB awards disability benefits to individuals if they are incapable of performing a simple non-essential task. If a duty is unintentionally omitted, the RRB believes the information requested in subsequent questions 13 and 14 will capture that information. Lastly, the RRB assured commenters that the appropriate legal standard will be applied when adjudicating a disability application.
- Item 13: Use of the term "conditions" provides an RRB claims examiner with all the environmental conditions that an applicant is exposed to, not just the environmental hazards. It is intended to be inclusive and capture the essence of all experiences at work, whether they are hazardous or benign in nature.
- Item 14: The purpose of the question is to provide the RRB examiner with an understanding of the types of physical activities required in the performance of the applicant's jobs. The RRB uses 8 hours as the typical work schedule to estimate the hours worked daily by an employee. However, the instructions to Item 14 provide the employee the option to check the exact number of hours worked daily.
- Item 15: A work accommodation can be relevant in determining whether an individual is disabled. The RRB determined, consistent with RRB Legal Opinion 98–15, that accommodations are to be taken into consideration if they are essential to the performance of the employee's particular occupation and only if the accommodated job was performed consistently for at least 5 years. Item 15, allows the RRB to gather specific information about whether accommodations provided should be considered in accordance with Legal Opinion 98–15. Applicants are not asked to speculate about accommodations, but to provide information about accommodations actually put into effect.

After a careful and thorough evaluation of the comments received, the RRB is now moving forward with a standard renewal of the information collection. No changes are proposed to Form G–251. Completion is required to obtain or retain a benefit. One response is requested of each respondent.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–251 (with assistance)	5,730	40	3,820
G–251 (without assistance)	270	50	225
Total	6,000		4,045

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.* Comments regarding the information collection should be addressed to Charles

Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Charles.Mierzwa@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2016–20675 Filed 8–26–16; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension: Regulation S
SEC File No. 270–315, OMB Control No. 3235–0357

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation S (17 CFR 230.901 through 230.905) sets forth rules governing offers and sales of securities made outside the United States without registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Regulation S clarifies the extent to which Section 5 of the Securities Act applies to offers and sales of securities outside of the United States. Regulation S is assigned one burden hour for administrative convenience.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 23, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20570 Filed 8–26–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78643; File No. SR–BatsBZX–2016–34]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change to BZX Rule 14.11(i), Managed Fund Shares, To List and Trade Shares of the ProShares Crude Oil Strategy ETF

August 23, 2016.

On July 1, 2016, Bats BZX Exchange, Inc. (“BZX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the ProShares Crude Oil Strategy ETF, a series of ProShares Trust, under Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on July 21, 2016.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates October 19, 2016, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsBZX–2016–34).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20574 Filed 8–26–16; 8:45 am]

BILLING CODE 8011–01–P

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78346 (July 15, 2016), 81 FR 47475.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78642; File No. SR–NASDAQ–2016–071]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the First Trust CEF Income Opportunity ETF and the First Trust Municipal CEF Income Opportunity ETF

August 23, 2016.

I. Introduction

On May 10, 2016, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (“Shares”) of the First Trust CEF Income Opportunity ETF (“CEF Income Opportunity Fund”) and First Trust Municipal CEF Income Opportunity ETF (“Municipal CEF Income Opportunity Fund” and collectively, “Funds”) under Nasdaq Rule 5735. On May 20, 2016, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The Commission published notice of the proposed rule change, as modified by Amendment No. 1, in the **Federal Register** on May 31, 2016.[4] The Commission received one comment letter on the proposed rule change.[5] This order approves the proposed rule change, as modified by Amendment No. 1.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 is available at *https://www.sec.gov/comments/sr-nasdaq-2016-71/nasdaq2016071-2.pdf.*

II. The Exchange's Description of the Proposal[6]

The Exchange proposes to list and trade the Shares under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by First Trust Exchange-Traded Fund VIII ("Trust"), which was established as a Massachusetts business trust on February 22, 2016.[7] The investment advisor to the Funds will be First Trust Advisors L.P. ("Adviser").[8] The Distributor will be the principal underwriter and distributor of the Shares. The Bank of New York Mellon Corporation will act as the administrator, accounting agent, custodian and transfer agent to the Funds.

Principal Investments of the Funds

The investment objective of the CEF Income Opportunity Fund will be to seek to provide current income with a secondary emphasis on total return. Under normal market conditions,[9] the CEF Income Opportunity Fund will seek to achieve its investment objective by investing at least 80% of its net assets in closed-end funds.[10]

The investment objective of the Municipal CEF Income Opportunity Fund will be to seek to provide current income. Under normal market conditions, the Municipal CEF Income Opportunity Fund will seek to achieve its investment objective by investing at least 80% of its net assets (including investment borrowings) in a portfolio of municipal closed-end funds.

Non-Principal Investments for Each Fund

While under normal market conditions each Fund will invest at least 80% of its net assets as described above, each Fund may invest (in the aggregate) up to 20% of its net assets in the following securities and instruments.

Each Fund may invest in exchange-traded funds ("ETFs")[11] and exchange-traded notes ("ETNs").[12]

Each Fund may invest in money market mutual funds that will be investment companies registered under the 1940 Act.

Each Fund may hold cash or invest in the following short-term debt instruments:[13] (1) Fixed rate and floating rate U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements,[14] which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper, which is short-term unsecured promissory notes.[15]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Exchange Act,[17] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the

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[4] *See* Securities Exchange Act Release No. 77895 (May 24, 2016), 81 FR 34407 (NASDAQ–2016–071) ("Notice").

[5] *See* letter from Stephanie Price, dated May 31, 2016. Because the comment is not directly relevant to the proposed rule change, the Commission does not address the comment herein.

[6] Additional information regarding the Fund, the Shares, and the Trust (as defined herein), including investment strategies, investment restrictions, risks, creation and redemption procedures, fees, portfolio holdings, disclosure policies, calculation of net asset value ("NAV"), distributions, and taxes, among other things, can be found in the Notice and the Registration Statement, as applicable. *See* Notice, *supra* note 4, and Registration Statement, *infra* note 7.

[7] The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A ("Registration Statement") with the Commission. *See* Registration Statement on Form N–1A for the Trust, dated March 14, 2016 (File Nos. 333–210186 and 811–23147). In addition, the Exchange states that the Commission has issued an order, upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 28468 (October 27, 2008) (File No. 812–13477).

[8] The Adviser is not a broker-dealer, but it is affiliated with First Trust Portfolios L.P. ("Distributor"), a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio. The Funds do not currently intend to use a sub-adviser. In the event (a) the Adviser or any sub-adviser registers as a broker-dealer, or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to a portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. In addition, personnel who make decisions on each Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such Fund's portfolio.

[9] The term "under normal market conditions" includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the securities markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[10] The closed-end funds in which each Fund invests ("Closed-End Funds") will be registered under the 1940 Act and listed and traded in the U.S. on registered exchanges.

[11] ETFs held by either Fund will be listed and traded on a national securities exchange. Each Fund may invest in inverse ETFs; neither Fund will invest in leveraged or inverse leveraged (*e.g.,* 2X or –3X) ETFs. *See* Notice, *supra* note 4, 81 FR 34409, n.10.

[12] The Exchange represents that while the Funds may invest in inverse ETNs, the Funds will not invest in leveraged or inverse leveraged (*e.g.,* 2X or –3X) ETNs. *See id.* at 34409, n.11.

[13] The Exchange represents that these short-term debt instruments will be issued by issuers having a long-term debt rating of at least BBB-/Baa3 by Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc., Moody's Investors Service, Inc. or Fitch Ratings and will have a maturity of one year or less. *See id.* at 34409, n.12.

[14] The Exchange states that each Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust. The Adviser will review and monitor the creditworthiness of such institutions. The Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement. *See id.* at 34409, n.13.

[15] The Exchange represents that each Fund may only invest in commercial paper rated A–1 or higher by S&P Ratings, Prime-1 or higher by Moody's or F1 or higher by Fitch. *See id.* at 34409, n.14.

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

Exchange Act,[18] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

The Commission believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. As stated in the Notice, the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. According to the Exchange, quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association ("CTA") plans for the Shares. Quotation and last-sale information for the Closed-End Funds, ETFs, and ETNs will be available from the exchanges on which they are traded as well as in accordance with any applicable CTA plans. Pricing information for short-term U.S. government securities, commercial paper, bankers' acceptances, repurchase agreements, bank time deposits, and certificates of deposit will be available from major broker-dealer firms and/or major market data vendors or pricing services. Pricing information for Closed-End Funds, ETFs, and ETNs will be available from the applicable listing exchange (as indicated above) and from major market data vendors. Prices for money market mutual funds will be available through the applicable fund's Web site or from major market data vendors. In addition, for each Fund, an estimated value, defined in Exchange Rule 5735(c)(3) as the "Intraday Indicative Value," that reflects an estimated intraday value of the Fund's Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,[19] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.[20]

Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[21] Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which trading in the Shares may be halted.[22]

The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees.[23] Nasdaq Rule 5735(g) further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the open-end fund's portfolio. The Exchange states that the Adviser is not a broker-dealer, but it is affiliated with the Distributor, a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio. In the event (a) the Adviser or any sub-adviser registers as a broker-dealer, or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement and will maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to a portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. In addition, personnel who make decisions on each Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such Fund's portfolio.[24]

In support of this proposal, the Exchange has made the following representations:

(1) The Shares will conform to the initial and continued listing criteria under NASDAQ Rule 5735.[25]

(2) Trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[26]

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the Closed-End Funds, ETFs, and ETNs held by the Funds with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and FINRA may obtain trading information regarding trading in the Shares and such securities held by the Funds from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the Closed-End Funds, ETFs, and ETNs held by the Funds from markets and other entities that are members of ISG, which includes securities exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Funds reported to FINRA's Trade Reporting and Compliance Engine.[27]

(4) The Closed-End Funds, ETFs, and ETNs held by the Funds will trade in markets that are members of ISG or are

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[18] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[19] The Exchange states that the NASDAQ OMX Global Index Data Service ("GIDS") is the Nasdaq global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. *See* Notice, *supra* note 4, 81 FR at 34411, n.25.

[20] The Exchange states that premiums and discounts between the Intraday Indicative Value and the market price may occur, but that the dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of a Fund on a daily basis and will provide a close estimate of that value throughout the trading day. *See id.* at 34411.

[21] These may include: (1) The extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[22] The Exchange represents that it deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. *See id.* at 34411.

[23] *See id.* at 34412.

[24] *See supra*, note 8.

[25] *See* Notice, *supra* note 4, 81 FR at 34412.

[26] *See id.* at 34411–12. FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. *See id.* at 34412, n.27.

[27] *See id.* at 34412.

parties to a comprehensive surveillance sharing agreement with the Exchange.[28]

(5) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular for each Fund will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre Market and Post Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Exchange Act.[29]

(6) For initial and continued listing, each Fund must be in compliance with Rule 10A–3 under the Exchange Act.[30]

(7) Shares of Closed-End Funds, ETFs, and ETNs held by a Fund will trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(8) The Funds will not invest in derivative instruments.

(9) While the Funds may invest in inverse ETFs and ETNs, the Funds will not invest in leveraged or inverse leveraged ETFs or ETNs.[31]

(10) Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), deemed illiquid by the Adviser. Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of such Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

(11) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.[32]

(12) All statements and representations made in this filing regarding (a) the description of the portfolios, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will monitor for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.[33]

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice.

For the reasons discussed above, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Exchange Act.[34]

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Exchange Act,[35] that the proposed rule change (SR–NASDAQ–2016–071), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20573 Filed 8–26–16; 8:45 am]

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[28] *See* Notice, *supra* note 4.

[29] Additionally, the Information Circular for each Fund will reference that such Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular for each Fund will also disclose the trading hours of the Shares of such Fund and the applicable NAV Calculation Time for the Shares. *See id.*

[30] 17 CFR 240.10A–3.

[31] *See* notes 11 and 12, *supra.*

[32] *See id.* at 34411.

[33] *See id.* at 34412.

[34] The Commission notes that the comment letter, *supra* note 5, does not raise any specific concerns about whether any aspect of the proposed rule change is inconsistent with the Exchange Act.

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78653; File No. SR–BatsBZX–2016–30]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change to BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, To List and Trade Winklevoss Bitcoin Shares Issued by the Winklevoss Bitcoin Trust

August 23, 2016.

On June 30, 2016, Bats BZX Exchange, Inc. ("BZX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade Winklevoss Bitcoin Shares issued by the Winklevoss Bitcoin Trust under BZX Rule 14.11(e)(4). The proposed rule change was published for comment in the **Federal Register** on July 14, 2016.[3] The Commission has received five comment letters on the proposed rule change.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 12, 2016, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsBZX–2016–30).

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78262 (Jul. 8, 2016), 81 FR 45554.

[4] *See* Letters from Robert D. Miller, VP Technical Services, RKL eSolutions (Jul. 11, 2016); Jorge Stolfi, Full Professor, Institute of Computing UNICAMP (Jul. 13, 2016); Guillaume Lethuillier (Jul. 26, 2016); Michael B. Casey (Jul. 31, 2016); and Erik A. Aronesty, Sr. Software Engineer, Bloomberg LP (Aug. 2, 2016). All comments on the proposed rule change are available on the Commission's Web site at: *https://www.sec.gov/comments/sr-batsbzx-2016-30/batsbzx201630.shtml.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20576 Filed 8–26–16; 8:45 am]

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[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78640; File No. SR–BatsBZX–2016–26]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change to BZX Rule 14.11(d) To Add the EURO STOXX 50® Volatility Futures to the Definition of Futures Reference Asset

August 23, 2016.

On June 23, 2016, Bats BZX Exchange, Inc. ("BZX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BZX Rule 14.11(d) by adding the EURO STOXX 50® Volatility (VSTOXX®) Futures to the definition of Futures Reference Asset. The proposed rule change was published for comment in the **Federal Register** on July 12, 2016.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates October 10, 2016, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsBZX–2016–26).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20571 Filed 8–26–16; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78236 (Jul. 6, 2016), 81 FR 45185.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78654; File No. SR–NASDAQ–2016–117]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Elkhorn Commodity Rotation Strategy ETF of the Elkhorn ETF Trust

August 23, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 11, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes a rule change relating to the Elkhorn Commodity Rotation Strategy ETF (formerly, the Elkhorn Dorsey Wright Commodity Rotation Portfolio) (the "Fund") of Elkhorn ETF Trust (the "Trust"), the shares of which have been approved by the Commission for listing and trading under Nasdaq Rule 5735 ("Managed Fund Shares"). The proposed rule change reflects (i) a change to the name of the Fund, and (ii) a change to the name and ownership of the benchmark index applicable to the Fund. The shares of the Fund are collectively referred to herein as the "Shares."

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/*, at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission previously approved the listing and trading of the Shares under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange.[3] However, no Shares are currently listed and traded on the Exchange. The Exchange believes the proposed rule change reflects no significant issues not previously addressed in the Prior Release.

The Fund is an actively managed exchange-traded fund ("ETF"). The Shares will be offered by the Trust, which was organized as a Massachusetts business trust on December 12, 2013. The Trust, which is registered with the Commission as an investment company, has filed a registration statement on Form N–1A ("Registration Statement") relating to the Fund with the Commission.[4]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved Nasdaq Rule 5735 (formerly Nasdaq Rule 4420(o)) in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). The Commission previously approved the listing and trading of the Shares of the Fund. *See* Securities Exchange Act Release No. 77688 (April 22, 2016), 81 FR 25467 (April 28, 2016) (SR–NASDAQ–2016–030) ("Prior Order"). *See also* Securities Exchange Act Release No. 77338 (March 10, 2016), 81 FR 14142 (March 16, 2016) (SR–NASDAQ–2016–030) ("Prior Notice," and together with the Prior Order, the "Prior Release").

[4] *See* Registration Statement on Form N–1A for the Trust, dated February 18, 2016 (File Nos. 333–201473 and 811–22926) (the "Registration Statement"). The descriptions of the Shares and the

Continued

As indicated in the Prior Release, Elkhorn Investments, LLC will be the investment adviser (the "Adviser") to the Fund and will monitor the Fund's investment portfolio. It is currently anticipated that day-to-day portfolio management for the Fund will be provided by the Adviser. However, the Fund and the Adviser may contract with an investment sub-adviser (a "Sub-Adviser") to provide day-to-day portfolio management for the Fund. ALPS Distributors, Inc. will be the principal underwriter and distributor of the Fund's Shares. The Fund will contract with unaffiliated third parties to provide administrative, custodial and transfer agency services to the Fund.

The Prior Release identified the name of the Fund as the Elkhorn Dorsey Wright Commodity Rotation Portfolio. Subsequent to the Commission's approval of the listing and trading of the Shares, the Fund determined to change its name to the Elkhorn Commodity Rotation Strategy ETF following the request from the SEC's Division of Investment Management to remove the reference to "Dorsey Wright" from the Fund's name. In this proposed rule change, the Exchange proposes to reflect the change to the name of the Fund.

The Prior Release provided that the Fund's investment objective would be to provide total return which exceeds that of the "DWA Commodity Rotation Index" (the "Original Benchmark"). The Prior Release indicated that the Original Benchmark was developed, maintained and sponsored by Dorsey, Wright & Associates, LLC ("Dorsey Wright"). In this proposed rule change, the Exchange proposes to reflect a change to the name and ownership of the benchmark index applicable to the Fund. The new benchmark will be called the "Elkhorn Dorsey Wright Commodity Rotation Index" ("New Benchmark"). Accordingly, the Fund's investment objective will be to provide total return which exceeds that of the New Benchmark and, except as provided herein, the term "Benchmark," as set forth in the Prior Release, will generally be deemed to refer to the New Benchmark.

The New Benchmark is a proprietary index that will be owned by the Adviser. Consistent with the Prior Release, the New Benchmark (like the Original Benchmark) will track a proprietary model of futures contracts on commodities (the "Benchmark Model") that is developed, maintained and sponsored by Dorsey Wright. The Benchmark Model will be licensed to the Adviser.

In connection with the Benchmark Model, Dorsey Wright applies a relative strength methodology to rank twenty-five to thirty single commodity futures, each represented by single commodity futures index with an embedded dynamic roll strategy, and selects a subset of commodity futures that demonstrate relative strength characteristics. The methodology takes into account, among other characteristics, the performance of a commodity as compared to the broad commodity market, the relative performance of each single commodity versus all of the other commodities, and the liquidity of the underlying commodities.

The Fund will not be sponsored, endorsed, sold or promoted by Dorsey Wright. Dorsey Wright's only relationship to the Fund will be the licensing of certain service marks and service names of Dorsey Wright and the licensing of the Benchmark Model to the Adviser. Dorsey Wright will have no obligation to take the needs of the Adviser, any Sub-Adviser or the Fund into consideration in connection with the Benchmark Model or its application of the related methodology.

Except for the changes noted above, all of the representations made in the Prior Release remain unchanged.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[5] in general and Section 6(b)(5) of the Act[6] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange notes that Shares have not yet been listed on the Exchange. Consistent with the Prior Release, the Exchange represents that trading in the Shares would be subject to the existing trading surveillances, administered by both Nasdaq and also the Financial Industry Regulatory Authority ("FINRA"), on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws and that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that, other than to change the Original Benchmark to the New Benchmark, there is no change to the Fund's investment objective. The Adviser represents that the purpose of the proposed change is to reflect a change to the name of the Fund and the name and ownership of the benchmark index applicable to the Fund. Accordingly, the Fund's investment objective will be to provide total return which exceeds that of the New Benchmark and, except as provided herein, the term "Benchmark," as set forth in the Prior Release, will generally be deemed to refer to the New Benchmark. The Adviser represents that, other than the changes to the name and ownership of the Benchmark, there are no other changes to the Benchmark, including to its methodology, as described in the Prior Release. Except as provided herein, none of the representations of the Fund or the Adviser made in the Prior Release have changed.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. As noted above, the proposed rule change is intended to reflect a change to the name of the Fund and the name and ownership of the benchmark index applicable to the Fund. Further, the Exchange notes that the Fund does not yet have publicly offered Shares and does not yet have Shares listed and traded on the Exchange. Before Shares are publicly offered, the Trust will file a post-effective amendment to its Registration Statement that reflects the changes in the proposed rule change. The Shares will not be publicly offered until the post-effective amendment to the Registration Statement becomes effective.

Fund contained herein are based, in part, on information in the Registration Statement. Before Shares are publicly offered, the Trust will file a post-effective amendment to its Registration Statement that reflects the changes in this proposed rule change. The descriptions of the operation of the Trust and the Fund will be reflected in any such filing. The changes in this proposed rule change will not be implemented for the Fund until the post-effective amendment to the Registration Statement becomes effective. The Adviser represents that the Adviser will not implement the changes described herein until the instant proposed rule change is operative.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

For the above reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will accommodate the listing and trading of Managed Fund Shares for an additional actively managed exchange-traded product, thereby enhancing competition among issues of Managed Fund Shares.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–117 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–117. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–117 and should be submitted on or before September 19, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20577 Filed 8–26–16; 8:45 am]

BILLING CODE 8011–01–P

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[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78641; File No. SR–NYSE–2016–44]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Allowing the Exchange To Trade Pursuant To Unlisted Trading Privileges for Any NMS Stock Listed on Another National Securities Exchange; Establishing Listing and Trading Requirements for Exchange Traded Products; and Adopting New Equity Trading Rules Relating To Trading Halts of Securities Traded Pursuant to UTP on the Pillar Platform

August 23, 2016.

On June 30, 2016, New York Stock Exchange LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to (1) allow the Exchange to trade pursuant to unlisted trading privileges ("UTP") any NMS Stock listed on another national securities exchange; (2) establish listing and trading requirements for exchange-traded products ("ETPs"); and (3) adopt new equity trading rules relating to trading halts of securities traded pursuant to UTP on the Pillar platform. The proposed rule change was published for comment in the **Federal Register** on July 14, 2016.[3] On July 26, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78263 (Jul. 8, 2016), 81 FR 45580.

[4] In Amendment No. 1, the Exchange: (1) Added a bullet point stating that "[b]ecause the Exchange's rules regarding the production of books and records are described in Rule 440, the Exchange is proposing to refer to Rule 440 in its proposed rules wherever NYSE Arca Equities Rule 4.4 is referenced in the rules of NYSE Arca Equities proposed in this filing;" (2) deleted the sentence stating that "[i]f an exchange has approved trading rules, procedures and listing standards in place that have been approved by the Commission for the product class that would include a new derivative securities product, the listing and trading of such 'new derivative securities product,' does not require a proposed rule change under Section 19b–4 of the Act" and made conforming changes to the rest of that paragraph; (3) deleted the bullet point that stated "[c]orrection of a typographical error in NYSE Arca Equities Rule 8.400(a) so that proposed Rule 8.400(a) reads 'as such terms are used in Rule 5.1(b)' in the last sentence, rather than 'as such terms are used in the Rule 5.1(b)' as is currently drafted in NYSE Arca Equities Rule 8.400(a);" and

Continued

Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is August 28, 2016. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 12, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSE–2016–44).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20572 Filed 8–26–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Form 15F
SEC File No. 270–559, OMB Control No. 3235–0621

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 15F (17 CFR 249.324) is filed by a foreign private issuer when terminating its Exchange Act reporting obligations pursuant to Exchange Act Rule 12h–6 (17 CFR 240.12h–6). Form 15F requires a foreign private issuer to disclose information that helps investors understand the foreign private issuer's decision to terminate its Exchange Act reporting obligations and assists the Commission staff in determining whether the filer is eligible to terminate its Exchange Act reporting obligations pursuant to Rule 12h–6. Rule 12h–6 provides a process for a foreign private issuer to exit the Exchange Act registration and reporting regime when there is relatively little U.S. investor interest in its securities. Rule 12h–6 is intended to remove a disincentive for foreign private issuers to register their securities with the Commission by lessening concerns that the Exchange Act registration and reporting system would be difficult to exit once an issuer enters it. We estimate that Form 15F takes approximately 30 hours to prepare and is filed by approximately 30 issuers. We estimate that 25% of the 30 hours per response (7.5 hours per response) is prepared by the filer for a total annual reporting burden of 225 hours (7.5 hours per response × 30 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 23, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20568 Filed 8–26–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Regulation 12B
SEC File No. 270–70, OMB Control No. 3235–0062

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation 12B (17 CFR 240.12b–1 through 12b–37) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act") includes rules governing the registration and periodic reporting requirements under Sections 12(b), 12(g), 13, and 15(d) (15 U.S.C. 78l(b), 78l(g), 78m and 78o(d)) of the Exchange Act. The purpose of the regulation is to set forth guidelines for the uniform preparation of Exchange Act registration statements and reports. Regulation 12B is assigned one burden hour for administrative convenience because the regulation simply prescribes the disclosure that must appear in other filings under the federal securities laws.

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the

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(4) noted that "for new ETPs to be traded pursuant to UTP, which are listed and traded on another exchange pursuant to Rule 19b–4(e), the Exchange would be required to file Form 19b–4(e) with the Commission in accordance with the requirements therein." Amendment No. 1 to the proposed rule change is available at: ***https://www.sec.gov/comments/sr-nyse-2016-44/nyse201644-1.pdf.*** Because Amendment No. 1 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 23, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–20569 Filed 8–26–16; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 14815 and # 14816]

West Virginia Disaster # WV–00045

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of West Virginia dated 08/23/2016.

Incident: Severe Storms and Flooding.

Incident Period: 07/29/2016 through 07/30/2016.

Effective Date: 08/23/2016.

Physical Loan Application Deadline Date: 10/24/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 05/23/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Brooke.

Contiguous Counties:

West Virginia: Hancock, Ohio.

Ohio: Jefferson.

Pennsylvania: Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.125
Homeowners without Credit Available Elsewhere	1.563
Businesses with Credit Available Elsewhere	6.250
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.625
Non-Profit Organizations without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14815 6 and for economic injury is 14816 0.

The States which received an EIDL Declaration # are West Virginia, Ohio, Pennsylvania.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: August 23, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–20665 Filed 8–26–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 03/03–0245 issued to Spring Capital Partners II, LP, said license is hereby declared null and void.

United States Small Business Administration.

Dated: August 22, 2016.

Mark Walsh,

Associate Administrator for Investment and Innovation.

[FR Doc. 2016–20664 Filed 8–26–16; 8:45 am]

BILLING CODE P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2016–0041]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA)

Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2016–0041].

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 28, 2016. Individuals can obtain copies of the collection instrument by writing to the above email address.

Methods for Conducting Personal Conferences When Waiver of Recovery *of a Title II or Title XVI Overpayment Cannot Be Approved—20 CFR 404.506(e)(3), 404.506(f)(8), 416.557(c)(3), and 416.557(d)(8)—0960–0769.* SSA conducts personal conferences when we cannot approve a waiver of recovery of a Title II or Title XVI overpayment. The Social Security Act (Act) and our regulatory citations require SSA to give overpaid Social Security beneficiaries and Supplemental Security Income (SSI) recipients the right to request a waiver of recovery and automatically schedule a personal conference if we cannot approve their request for waiver of overpayment. We conduct these conferences face-to-face, via telephone, or through video teleconferences. Social Security beneficiaries and SSI recipients or their representatives may provide documents to demonstrate they are without fault in causing the overpayment and do not have the ability to repay the debt. They may submit these documents by completing Form SSA–632, Request for Waive of Overpayment Recovery (OMB No. 0960–0037); Form SSA–795, Statement of Claimant or Other Person (OMB No. 0960–0045); or through a personal statement submitted by mail, telephone, personal contact, or other suitable method, such as fax or email. This information collection satisfies the requirements for request for waiver of recovery of an overpayment, and allows individuals to pursue further levels of administrative appeal via personal conference. Respondents are Social Security beneficiaries and SSI recipients or their representatives seeking reconsideration of an SSA waiver decision.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Title II, Personal Conference, 404.506(e)(3) and 404–506(f)(8): Submittal of documents, additional mitigating financial information, and verifications for consideration at personal conferences	19,663	1	30	9,832
Title XVI, Personal Conference, 416.557(c)(3) and 416–557(d)(8): Submittal of documents, additional mitigating financial information, and verifications at personal conferences	56,464	1	30	28,232
Totals	76,127			38,064

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than *September 28, 2016.* Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Request for Earnings and Benefit Estimate Statement—20 CFR 404.810—0960–0466. Section 205(c)(2)(A) of the Act requires the Commissioner of SSA to establish and maintain records of wages paid to, and amounts of self-employment income derived by, each individual as well as the periods in which such wages were paid and such income derived. An individual may complete and mail Form SSA–7004 to SSA's Data Operations Center in Wilkes-Barre, PA, to obtain a Statement of Earnings or Quarters of Coverage. SSA uses the information Form SSA–7004 collects to identify respondent's Social Security earnings records, extract posted earnings information, calculate potential benefit estimates, produce the resulting Social Security statements, and mail them to the requesters. The respondents are Social Security number holders requesting information about their Social Security earnings records and estimates of their potential benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–7004	40,090	1	5	3,341

2. National Beneficiary Survey—0960–0800. SSA is continuing the National Beneficiary Survey (NBS), a survey which gathers data from SSI recipients and Social Security Disability Insurance (SSDI) beneficiaries about their characteristics; well-being; and other factors that promote or hinder employment. In particular, the survey seeks to uncover important information about the factors promoting beneficiary self-sufficiency and, conversely, factors impeding beneficiary efforts to maintain employment. We use this data to improve the administration and effectiveness of the SSDI and SSI programs. These results are valuable as SSA and other policymakers continue efforts to improve programs and services that help SSDI beneficiaries and SSI recipients become more self-sufficient.

Background

SSDI and SSI programs provide a crucial and necessary safety net for working-age people with disabilities. By improving employment outcomes for SSDI beneficiaries and SSI recipients, SSA supports the effort to reduce the reliance of people with disabilities on these programs. SSA conducted the prior NBS in 2004, 2005, 2006, and 2010, and it was an important first step in understanding the work interest and experiences of SSI recipients and SSDI beneficiaries, and in gaining information about their impairments; health; living arrangements; family structure; pre-disability occupation; and use of non-SSA programs (*e.g.,* the Supplemental Nutrition Assistance Program). The prior NBS data is available to researchers and the public.

The National Beneficiary Survey (NBS)

The primary purpose of the new NBS-General Waves is to assess beneficiary well-being and interest in work; learn about beneficiary work experiences (successful and unsuccessful); and identify factors that promote or restrict long-term work success. Information collected in the survey includes factors such as health; living arrangements; family structure; current occupation; use of non-SSA programs; knowledge of SSDI and SSI work incentive programs; obstacles to work; and beneficiary interest and motivation to return to work.

We conducted the first wave of the NBS-General Waves in 2015. We will further conduct subsequent rounds in 2017 (round 2) and 2019 (round 3). The information we will collect is not available from SSA administrative data or other sources. In the NBS-General Waves, the sample design is similar to what we used for the prior NBS collections. Enhancement of the prior questionnaire includes additional questions on the factors that promote or hinder employment success. In 2015, we conducted semi-structured qualitative interviews to provide SSA an in-depth understanding of factors that aid or inhibit individuals in their efforts to obtain and retain employment and advance in the workplace. We use the qualitative data to add context and understanding when interpreting survey results, and to inform the sample and survey design of rounds 2 and 3.

Respondent participation in the NBS is voluntary and the decision to participate or not has no impact on current or future receipt of payments or benefits. Respondents are current SSDI beneficiaries and SSI recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
2017				
Cross-Sectional Samples				
Representative Beneficiary Sample	4,000	1	50	3,333
Successful Workers	4,500	1	70	5,250
Subtotal				8,583
2019				
Cross-Sectional Samples				
Representative Beneficiary Sample	4,000	1	50	3,333
Successful Workers	4,500	1	70	5,250
Longitudinal Samples				
Successful Workers	2,250	1	70	2,625
Subtotal				9,458
Total Burden	17,750			18,041

Dated: August 23, 2016.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2016–20559 Filed 8–26–16; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 9694]

30-Day Notice of Proposed Information Collection: Technology Security/ Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 30 days for public comment preceding submission of the collection to OMB.

DATES: Submit comments directly to the Office of Management and Budget up to September 28, 2016.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice to: Steve Derscheid—PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112, who may be reached via email at *DerscheidSA@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18.
- *OMB Control Number:* 1405–0195.
- *Type of Request:* Extension of Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls (PM/DDTC).
- *Form Number:* No form.
- *Respondents:* Business and Nonprofit Organizations.

- *Estimated Number of Respondents:* 10,000.
- *Estimated Number of Responses:* 10,000.
- *Average Time per Response:* 10 hours.
- *Total Estimated Burden Time:* 100,000 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The export, temporary import, and brokering of defense articles, defense services, and related technical data are licensed by the Directorate of Defense Trade Controls (DDTC) in accordance with the International Traffic in Arms Regulations (''ITAR,'' 22 CFR parts 120–130) and Section 38 of the Arms Export Control Act.

ITAR § 126.18 eliminates, subject to certain conditions, the requirement for an approval by DDTC for the reexport of unclassified defense articles, which includes technical data, to individuals who are dual or third-country national employees of a foreign business entity, foreign governmental entity, or international organization that is an authorized end-user, foreign signatory, or consignee (including transfers to approved sub-licensees) for defense articles, including the transfer to dual nationals or third-country nationals who are bona fide regular employees of the foreign business entity, foreign governmental entity, or international organization.

To use ITAR § 126.18, effective procedures must be in place to prevent diversion to any destination, entity, or for purposes other than those authorized by the applicable export license or other authorization. Those conditions can be met under § 126.18(c)(1) by requiring a security clearance approved by the host nation government for its employees, or under § 126.18(c)(2) by the end-user or consignee having in place a process to screen its employees and to have executed a Non-Disclosure Agreement that provides assurances that the employee will not transfer any defense articles to persons or entities unless specifically authorized by the consignee or end-user. ITAR § 126.18(c)(2) also provides that the technology security/clearance plans and screening records shall be made available to DDTC or its agents for civil or criminal law enforcement purposes upon request.

Methodology: When information kept on file pursuant to this recordkeeping requirement is required to be sent to the Directorate of Defense Trade Controls, it may be sent electronically or by mail according to guidance given by DDTC.

Dated: August 22, 2016.

Lisa Aguirre,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2016–20674 Filed 8–26–16; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 9693]

30-Day Notice of Proposed Information Collection: Application for a U.S. Passport: Corrections, Name Change Within 1 Year of Passport Issuance, and Limited Passport Holders

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to September 28, 2016.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, by mail to PPT Forms Officer, U.S. Department of State, CA/PPT/S/L/LA 44132 Mercure Cir., P.O. Box 1227, Sterling, VA 20166–1227, by phone at (202) 485–6373, or by email at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application for a U.S. Passport: Corrections, Name Change Within 1 Year of Passport Issuance, And Limited Passport Holders.
- *OMB Control Number:* 1405–0160.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Legal Affairs and Law Enforcement Liaison (CA/PPT/S/L/LA).
- *Form Number:* DS–5504.
- *Respondents:* Individuals.
- *Estimated Number of Respondents:* 136,833.
- *Estimated Number of Responses:* 136,833.
- *Average Time per Response:* 40 minutes.
- *Total Estimated Burden Time:* 91,222 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: Under 22 United States Code (U.S.C.)

Section 211a *et seq.* and Executive Order 11295 (August 5, 1966), the Secretary of State issues U.S. passports to U.S. citizens and non-citizen nationals. When the bearer of a valid U.S. passport applies for a new passport with corrected personal data or when the bearer of a limited validity passport applies for a fully-valid replacement passport, the Department must confirm the applicant's identity and eligibility before the Department can issue the new passport to the applicant. Form DS–5504 requests information needed to determine whether the applicant is eligible to receive this service in accordance with the requirements of Title III of the Immigration and Nationality Act (INA) (U.S.C. 1402–1504), the regulations at 22 CFR parts 50 and 51, and other applicable treaties and laws.

Methodology: Passport applicants can either download the DS–5504 from the internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, signed, and submitted along with the applicant's valid U.S. passport and supporting documents for corrective action.

Additional Information: The Privacy Act statement has been amended to clarify that an applicant's failure to provide his or her Social Security number may result in the denial of an application, consistent with 22 U.S.C. 2714a(f) which authorizes the Department to deny U.S. passport applications when the applicant failed to include his or her Social Security number. These requirements and the underlying legal authorities are further described on page 3 of the instruction titled "Federal Tax Law" which has also been amended to include a reference to 22 U.S.C. 2714a(f).

Additionally, the proposed renewal of form DS–5504 includes updated instruction regarding the eyeglass policy change, which prohibits applicants from wearing eyeglasses in passport photographs, unless the applicant presents a signed statement from a doctor demonstrating that the glasses must be worn due to medical reasons. The form also states that passport photos may include hats or head coverings only when they are worn continuously as part of recognized, traditional religious attire, or when the hat or head covering is worn for medical purposes as stated by a doctor in a signed statement.

Dated: August 17, 2016.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2016–20682 Filed 8–26–16; 8:45 am]

BILLING CODE 4710–06–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 329X)]

Union Pacific Railroad Company—Abandonment Exemption—in Pima County, Ariz.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon the remaining 1.6 miles of the Tucson South Main railroad line in Pima County, Ariz. (the Line). The Line extends between milepost 984.7 and milepost 986.3 in South Tucson, and traverses United States Postal Service Zip Codes 85701 and 85713.

UP states that the property underlying the Line is the subject of a state court condemnation action by Pima County. *Pima Cty.* v. *Union Pac. R.R.*, No. CV2015–010983 (Super. Ct. Maricopa Cty. filed July 9, 2015). UP states that it has reached an agreement with Pima County whereby Pima County will acquire the property pursuant to its condemnation authority following consummation of the abandonment.

UP has certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will become effective on September 28, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 8, 2016. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 19, 2016, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Jeremy M. Berman, 1400 Douglas St., #1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 2, 2016. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by

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[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

UP's filing of a notice of consummation by August 29, 2017, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV.*"

Decided: August 29, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Tammy Lowery,
Clearance Clerk.

[FR Doc. 2016–20645 Filed 8–26–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0033]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 18 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before September 28, 2016. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2016–0033 using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." FMCSA can renew exemptions at the end of each 2-year period. The 18 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Gregory M. Anderson

Mr. Anderson, 50, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2016, his ophthalmologist stated, "Visual field and color testing are normal. Mr. Anderson is okay to drive a commercial vehicle." Mr. Anderson reported that he has driven straight trucks for 12 years, accumulating 156,000 miles. He holds an operator's license from New York. His driving record for the last 3 years shows 1 crash in a CMV, for which he was not cited, and no convictions for moving violations in a CMV.

Richard D. Auger

Mr. Auger, 53, has had a prosthetic right eye since 1989. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "Based on my medical opinion, patient has sufficient vision in his left eye to perform the driving tasks required to operate a commercial vehicle." Mr. Auger reported that he has driven straight trucks for 33 years, accumulating 49,500 miles, and tractor-trailer combinations for 20 years, accumulating 10,000 miles. He holds a Class AM1 CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Theodore N. Belcher

Mr. Belcher, 33, has had a cataract in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, "Certifies that in my medical opinion, patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle: YES he has that opinion from me." Mr. Belcher reported that he has driven straight trucks for 3 years, accumulating 46,800 miles, and tractor-trailer combinations for 2 years, accumulating 72,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows 1 crash in a CMV, for which he was cited, and no convictions for moving violations in a CMV.

Darrin E. Bogert

Mr. Bogert, 50, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2016, his ophthalmologist stated, "His vision and driving attitude & [*sic*] history bears out the [*sic*] he can safely operate a commercial vehicle." Mr. Bogert reported that he has driven straight trucks for 13 years, accumulating 26,000 miles, and tractor-trailer combinations for 13 years, accumulating 650,000 miles. He holds a Class AM CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael S. Buck

Mr. Buck, 42, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, "In my professional opinion, Mr. Michael Buck has sufficient vision to perform the driving tasks required to operate the commercial vehicle." Mr. Buck reported that he has driven straight trucks for 10 years, accumulating 50,000 miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jose D. Chavez

Mr. Chavez, 45, has complete loss of vision in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, "In summary, Mr. Chavez demonstrates a visual acuity of 20/20 in his left eye and full visual field in his left eye, as well as full color testing for his left eye. After speaking with the Federal vision exemption program today, Mr. Chavez fulfills their criteria for being able to safely operate a commercial vehicle." Mr. Chavez reported that he has driven straight trucks for 15 years, accumulating 375,000 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Philip J. Clements

Mr. Clements, 65, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/125, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "Philip J Clements [*sic*] was seen in our office on 3/25/16 for his yearly DOT eye exam . . . He has the ability and vision in both eyes to perform tasks needed for driving." Mr. Clements reported that he has driven straight trucks for 5 years, accumulating 125,000 miles, tractor-trailer combinations for 10 years, accumulating 750,000 miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last 3 years shows 1 crash; for which he was cited for operating in excess of height limit, and no convictions for moving violations in a CMV.

Alfonso P. Echevarria

Mr. Echevarria, 38, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2016, his ophthalmologist stated, "Given the patient's best corrected visual acuity and visual field testing results, this patient meets criteria for sufficient vision to perform the driving task required to operate a commercial vehicle." Mr. Echevarria reported that he has driven straight trucks for 7 years, accumulating 14,000 miles. He holds an operator's license from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Samuel R. Graziano

Mr. Graziano, 54, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "In my professional opinion Mr. Graziano has stable visual acuity, peripheral vision and sufficient vision to perform the driving tasks for a commercial vehicle." Mr. Graziano reported that he has driven tractor-trailer combinations for 25 years, accumulating 1 million miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Zagar E. Melvin

Mr. Melvin, 47, has a retinal detachment in his right eye due to a traumatic incident in 2007. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his ophthalmologist stated, "If this is the case, then in my opinion, Mr. Melvin has sufficient vision to operate a commercial vehicle." Mr. Melvin reported that he has driven straight trucks for 1 year, accumulating 25,000 miles, and tractor-trailer combinations for 3 years, accumulating 300,000 miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

George R. Morehouse

Mr. Morehouse, 70, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2015, his optometrist stated, "I believe he can see well enough to safely operate a commercial motor vehicle." Mr. Morehouse reported that he has driven straight trucks for 35 years, accumulating 175,000 miles, and tractor-trailer combinations for 35 years, accumulating 175,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert H. Nelson, III

Mr. Nelson, 67, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "In my medical opinion, Mr. Nelson has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle." Mr. Nelson reported that he has driven straight trucks for 40 years, accumulating 1.4 million miles. He holds an operator's license from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Salvador Sanchez

Mr. Sanchez, 39, has complete loss of vision in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his ophthalmologist stated, "After thorough examination, I conclude that Mr. Sanchez [*sic*] visual deficiency in the right eye is stable and he has sufficient vision in the left eye to operate a commercial vehicle." Mr. Sanchez reported that he has driven straight trucks for 11 years, accumulating 137,500 miles. He holds an operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Randal J. Shabloski

Mr. Shabloski, 41, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "His uncorrected visual acuity had improved to 20/80 OD and continues to be 20/20 OS. Due to this improvement in his uncorrected visual acuity of his right eye I would recommend that you consider a re-evaluation for the possibility of Mr. Shabloski to obtain his CDL." Mr. Shabloski reported that he has driven straight trucks for 20 years, accumulating 116,000 miles and tractor-trailer combinations for 20 years, accumulating 54,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Curtis L. Shannon

Mr. Shannon, 44, has had congenital coloboma in his left eye since birth. The visual acuity in his right eye is 20/30, and in his left eye, 20/400. Following an examination in 2016, his optometrist stated, "It is my medical opinion that Mr. Curtis meets/exceeds all necessary vision test for CDL [*sic*]." Mr. Shannon reported that he has driven straight trucks for 4 years, accumulating 40,000 miles, and tractor-trailer combinations for 4 years, accumulating 90,000 miles. He holds an operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ricardo N. Vargas

Mr. Vargas, 62, has a macular scar in his left eye since 2000. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2016, his optometrist stated, "In my opinion Ricardo has sufficient vision to perform driving tasks required for commercial vehicle [*sic*]." Mr. Vargas reported that he has driven tractor-trailer combinations for 17 years, accumulating 680,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnny Watson

Mr. Watson, 59, has a prosthetic left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his ophthalmologist stated, "The patient has excellent visual acuity in his right eye with a full visual field of 120 in the horizontal. I think that he has adequate vision to perform any tasks assigned to him. The question was posed as to whether or not he could perform the driving tasks required to operate a commercial vehicle. Although I feel that this is the case, I cannot comment with a certainty as I have never personally witnessed the patient operation [*sic*] a commercial vehicle." Mr. Watson reported that he has driven straight trucks for 25 years, accumulating 300,000 miles, and tractor-trailer combinations for 15 years, accumulating 120,000 miles. He holds a Class BM CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Harold F. White, Jr.

Mr. White, 53, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2016, his optometrist stated, "It is my opinion that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. White reported that he has driven straight trucks for 4 years, accumulating 35,000 miles. He holds an operator's license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2016–0033 in the "Keyword" box, and click "Search. When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2016–0033 in the "Keyword" box and click "Search." Next, click "Open Docket Folder" button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–20494 Filed 8–26–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0127; Notice 2]

Graco Children's Products, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: Graco Children's Products, Inc. (Graco), has determined that certain Graco Milestone child restraints manufactured between July 9, 2015 and October 6, 2015, do not fully comply with paragraph S5.5.2(g)(1)(ii) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems.* Graco filed a report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Graco then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety. NHTSA is denying the petition.

ADDRESSES: For further information on this decision contact Zachary Fraser, Office of Vehicles Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5754, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Graco submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on February 17, 2016, in the **Federal Register** (81 FR 8123). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number "NHTSA–2015–0127."

II. Child Restraints Involved: Affected are approximately 8,240 Graco Milestone child restraints manufactured between July 9, 2015 and October 2, 2015.

III. Noncompliance: Graco explains that the noncompliance is an omitted statement on the child restraint's label. The labels on the subject child restraints do not contain the phrase "Secure this child restraint with the vehicle's child restraint anchorage system, if available, or with a vehicle belt" as required by paragraph S5.5.2(g)(1)(ii) of FMVSS No. 213.

IV. Rule Text: Paragraph S5.5.2(g)(1)(ii) of FMVSS No. 213 requires in pertinent part:

> S5.5.2 The information specified in paragraphs (a) through (m) of this section shall be stated in the English language and lettered in letters and numbers that are not smaller than 10 point type. Unless otherwise specified, the information shall be labeled on a white background with black text. Unless written in all capitals, the information shall be stated in sentence capitalization. . . .
>
> (g) The statements specified in paragraphs (1) and (2):
>
> (1) A heading as specified in S5.5.2(k)(3)(i), with the statement "WARNING! DEATH or SERIOUS INJURY can occur," capitalized as written and followed by bulleted statements in the following order: . . .
>
> (ii) Secure this child restraint with the vehicle's child restraint anchorage system if available or with a vehicle belt. [For car beds, harnesses, and belt positioning boosters, the first part of the statement regarding attachment by the child restraint attachment by the child restraint anchorage system is optional]. . . .

V. Summary of Graco's Analyses: Graco stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

(1) Graco stated that visual pictograms affixed to the subject child restraints show the rear-facing and forward-facing child restraint being secured using the child restraint anchorage system and using a vehicle belt (both with a lap only seat belt and lap/shoulder seat belt). The pictogram showing the rear-facing child restraint is located on the noncompliant label just below the omitted required phrase. The pictogram showing the forward-facing child restraint is located on a label in a different location on the restraint. Graco believes that the pictograms provide the same information as the omitted language required by FMVSS No. 213.

(2) Graco also stated that in addition to the pictograms that describe how to secure the child restraint in the vehicle using the child restraint anchorage system and the vehicle belt, the printed instruction manual provided with the subject child restraints includes procedures to secure the child restraint in rear-facing and forward-facing modes using the child restraint anchorage system as well as the vehicle seat belt systems. The instruction manual also includes multiple prominently placed safety warnings regarding the need to secure the child restraint with the child restraint anchorage system or the vehicle seat belt. Graco added that for those consumers who obtain a child restraint second hand or without the instruction manual, the pictograms on the labels suffice for providing the omitted information.

(3) Graco stated its belief that consumers generally understand that child restraints must be installed/secured in a vehicle's seat to be effective. Graco also stated that consumers will be visually drawn to illustrations showing the child restraint being secured in the vehicle thus the omitted required phrase does not affect the crashworthiness of the child restraint. Graco has additionally informed NHTSA that it has corrected the noncompliance so that child restraints produced after October 2, 2015, comply with all applicable labeling requirements of FMVSS No. 213.

In summation, Graco believes that the described noncompliance of the subject child restraints is inconsequential to motor vehicle safety, and that its petition, to exempt Graco from providing recall notification of the noncompliance as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA'S Decision

NHTSA's Analysis: The omitted label text required by S5.5.2(g)(1)(ii) of FMVSS No. 213, instructs a caregiver using the child seat to secure the child restraint with the vehicle's child restraint anchorage system if available or with a vehicle belt. The text is required to be placed under a larger label heading required by S5.5.2(g)(1) which states "WARNING! DEATH or SERIOUS INJURY can occur" capitalized as written and followed by bulleted statements in sequential order, beginning with important instructions for rear-facing usage, the maximum mass of children that can safely occupy the system, proper adjustment of the belts provided with the child restraint, instructions for securing the child restraint tether and the child restraint to the vehicle, and guidance on using and storing the instruction manual and on registering the restraint for recall notification purposes. The importance of the statement omitted by Graco is underscored by the requirement that it be located under this warning heading on the label.

The agency is not persuaded by Graco's statements that the missing statement is inconsequential to safety. Even though the subject child restraints are sold with labels that contain pictograms showing installations of rear-facing and forward-facing child restraints with anchorage systems and vehicle seat belt systems, the consumer may not be forewarned of the importance of the information being conveyed in these labels due to the omitted statement and its location under the capitalized warning heading.

Graco further contends that the printed instruction manual contains written procedures to secure the child restraint in rear-facing and forward-facing modes using anchorage systems and vehicle seat belt systems. Also, for those consumers who obtain a child restraint second-hand or without the instruction manual, Graco believes the pictograms on the labels suffice for providing the omitted information.

The agency disagrees with Graco's contention that since the printed instruction manual contains written instructions to install the child restraint in the rear-facing and forward-facing modes with anchorage systems and vehicle seat belt systems, the missing statement is inconsequential to safety. Even though the subject child restraints are required to be sold with a printed instruction manual containing written procedures for securing the child restraint in the vehicle, the consumer may not be forewarned to use the manual for specific instructions to properly secure the child restraint in the vehicle due to the omitted required statement. Consumers who may obtain a child restraint second-hand or without the instruction manual, would, according to Graco, be provided the omitted information with the pictograms on the labels. The agency stated above that the consumer may not be forewarned of the importance of the information being conveyed in these labels due to the omitted statement and its location under the capitalized warning heading.

Graco stated its belief that consumers generally understand that child restraints must be installed/secured in a vehicle's seat to be effective. Graco also stated that consumers will be visually drawn to illustrations showing the child restraint being secured in the vehicle, thus, the omitted required phrase does not affect the crashworthiness of the child restraint. Graco has presented no evidence to support this claim. In fact, the agency is aware of instances of gross misuse in the past where child restraints were found completely unattached to the vehicle seat. NHTSA does not agree that consumers necessarily understand the proper installation of child restraints in a vehicle seat, especially in a child restraint without the required statement. Also, NHTSA does not agree that consumers will necessarily be visually drawn to illustrations showing the child restraint being secured in the vehicle.

In summation, the agency believes that all the requirements contained in FMVSS No. 213 pertaining to the proper securement of a child restraint in a vehicle as described in the required statement omitted by Graco and included in the pictograms and printed instruction manuals are necessary to convey this important information.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Graco has not met its burden of persuasion that the FMVSS No. 213 noncompliance is inconsequential to motor vehicle safety. Accordingly, Graco's petition is hereby denied and Graco is obligated to provide notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Gregory K. Rea,

Associate Administrator for Enforcement.

[FR Doc. 2016–20560 Filed 8–26–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13667

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals whose property and interests in property are blocked pursuant to Executive Order (E.O.) 13667 and whose names have been added to OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective August 23, 2016.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On August 23, 2016, OFAC blocked the property and interests in property of the following individuals pursuant to E.O. 13667, "Blocking Property of Certain Persons Contributing to the Conflict in the Central African Republic":

1. KONY, Ali (a.k.a. BASHIR, Ali Lalobo; a.k.a. KAPERE, Otim; a.k.a. KONY, Ali Mohammed; a.k.a. LABOLA, Ali Mohammed; a.k.a. LABOLO, Ali Mohammad; a.k.a. LALOBO, Ali; a.k.a. LALOBO, Ali Bashir; a.k.a. LALOBO, Ali Mohammed; a.k.a. SALONGO, Ali Mohammed; a.k.a. "1–P"; a.k.a. "Bashir"; a.k.a. "Caesar"; a.k.a. "MOHAMMED, Ali"; a.k.a. "One-P"), Kafia Kingi; DOB 1994; alt. DOB 1995; alt. DOB 1993; alt. DOB 1992 (individual) [CAR] (Linked To: KONY, Joseph; Linked To: LORD'S RESISTANCE ARMY).
2. KONY, Salim (a.k.a. KONY, Salim Saleh; a.k.a. OBOL, Simon Salim; a.k.a. OGARO, Salim; a.k.a. OGARO, Salim Saleh Obol; a.k.a. SALEH, Salim; a.k.a. SALIM, Okolu), Kafia Kingi; Central African Republic; DOB 1992; alt. DOB 1991; alt. DOB 1993 (individual) [CAR] (Linked To: KONY, Joseph; Linked To: LORD'S RESISTANCE ARMY).

Dated: August 23, 2016.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–20583 Filed 8–26–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 24, 2016.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before September 28, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8117, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRA@treasury.gov*, calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov*.

Bureau of the Fiscal Service

OMB Control Number: 1530–0022.

Type of Review: Revision of a currently approved collection.

Title: Electronic Funds Transfer (EFT) Market Research Study.

Abstract: This information collection is a generic clearance to conduct customer satisfaction surveys, focus groups, and interviews among recipients of federal benefit and vendor payments through EFT. The need for this market research continues to arise from a Congressional directive that accompanied legislation enacted in 1996, as part of the Debt Collection Improvement Act (Pub. L. 104–134), expanding the scope of check recipients required to use direct deposit to receive Federal benefit payments (see 31 U.S.C. 3332). Congress directed Treasury to "study the socioeconomic and demographic characteristics of those who currently do not have Direct Deposit and determine how best to increase usage among all groups.'' 142 Cong. Rec. H4090 (daily ed. April 25, 1996).

Affected Public: Individuals or households.

Estimated Total Annual Burden Hours: 5,200.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2016–20669 Filed 8–26–16; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment to system of records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veteran Affairs (VA) is amending the system of records currently entitled ''Voluntary Service Records—VA'' (57VA135) as set forth in the **Federal Register** 74 FR 17555. VA is amending the system of records by revising the System Number, System Location, Purpose, Categories of Records in the System, Records Source Categories, Routine Uses of Records Maintained in the System, Policies and Practices for Storage of Records, Policies and Practices for Retrievability of Records, Safeguards, System Manager(s) and Address, and Notification Procedure. VA is republishing the system notice in its entirety.

DATES: Comments on this new system of records must be received no later than September 28, 2016. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new system will become effective September 28, 2016.

ADDRESSES: Written comments concerning the amended system of records may be submitted through *www.regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sabrina C. Clark, Director, Voluntary Service Office (10B2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Veterans Health Administration (VHA), Privacy Officer, Department of Veterans Affairs, 810 Vermont Ave NW., Washington, DC 20420, (704) 245–2492.

SUPPLEMENTARY INFORMATION: The System Number is changed from 57VA135 to 57VA10B2A to reflect the current organizational alignment.

The System Location has been amended to remove ''VSS is a web-based volunteer timekeeping package currently housed on Webservers at Silver Spring, MD.'' The new language will state that VSS is a web-based volunteer timekeeping package currently housed on Webservers located at the Capital Region Readiness Center, 221 Butler Avenue, Building 511, Martinsburg, West Virginia 25405.

The Purpose is being amended to remove student volunteer.

The Categories of Records in the System is being amended to add: ''Administrative records containing personal information such as name, address, phone number, email address, date of birth, and volunteer date in a VA health care facility, VA regional office, or VA cemetery, which is provided by the volunteer on VA Form 10–7055, 'Application for Voluntary Service'.''

The Records Source Categories is being amended to change 24VA136 to 24VA10P2.

The Routine Uses of Records Maintained in the System has been amended to delete the first routine use as it was duplicative of number 2. The numbering was corrected upon the removal of the duplicate routine use.

The Policies and Practices for Storage of Records and Safeguards sections are being amended to remove Silver Spring, Maryland, and replace it with Martinsburg, West Virginia.

The Policies and Practices for Retrievability of Records section is being amended to include names under section (a). Section (b) will include, ''but are not retrievable through VSS.''

The System Manager(s) and Address section is being amended to change the official maintaining the system from dNovus Contractor, Jay Singh, VHA Oakland OIFO, 1301 Clay Street, Suite 1350N, Oakland, CA 94612 to Technatomy Contractor, Jay Singh, VHA Oakland Office of Information Field Office (OIFO), 1301 Clay Street, Suite 1350N, Oakland, California 94612.

The Notification Procedure section is being amended to state ''submit a written request to the Director, Voluntary Service Office (10B2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *VHACO10B2AStaff@va.gov* or inquire in person at the VA health care facility where their voluntary service was accomplished.''

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Signing Authority: The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the **Federal Register** for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, approved this document, August 5, 2016, for publication.

Dated: August 10, 2016.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

57VA10B2A

SYSTEM NAME:

Voluntary Service Records—VA

SYSTEM LOCATION:

Records are maintained at each of the VA health care facilities and in the Voluntary Service System (VSS). Active records are retained at the facility where the individual has volunteered to assist the administrative and professional personnel and in the VSS. Basic information for all inactive records is retained at the facility where the volunteer worked and in the VSS. VSS is a web-based volunteer timekeeping package currently housed on Webservers located at the Capital Region Readiness Center, 221 Butler Avenue, Building 511, Martinsburg, West Virginia 25405.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Section 513.

PURPOSE(S):

The records and information are used for tracking the number of regularly-scheduled volunteers and occasional volunteers to produce statistical and managerial reports on the number of hours and visits of all volunteers each month, and to present volunteers with certificates of appreciation for service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All volunteers, regularly-scheduled and occasional, including non-affiliated and members of voluntary service organizations; welfare, service, veterans, fraternal, religious, civic, industrial, labor, and social groups or clubs, which voluntarily offer the services of their organizations and/or individuals to assist with the provision of care to patients, either directly or indirectly, through VA Voluntary Service under Title 38, United States Code, Section 513.

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative records containing personal information such as name, address, phone number, email address, date of birth, and volunteer date in a VA health care facility, VA regional office, or VA cemetery is provided by the volunteer on VA Form 10–7055, "Application for Voluntary Service". Information relating to the individual membership in service organizations, qualifications, restrictions and preferences of duty and availability to schedule time of service. Training records pertaining to the volunteer's service will also be maintained for all active volunteers at the facility where the volunteer works. Medical records of active volunteers will be maintained in the facility's Employee Health office. Fingerprint and background investigation records will be maintained by the local facility's office that handles those investigations.

RECORD SOURCE CATEGORIES:

Information in this system of records may be provided by the volunteer, his/her family, civic and service organization, "Patient Medical Records—VA" (24VA10P2) system of records, and Voluntary Service at the VA health care facility where the volunteer worked.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 CFR parts 160 and 164 (*i.e.,* individually identifiable health information), and 38 U.S.C. 7332 (*i.e.,* medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus), that information cannot be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR parts 160 and 164 permitting disclosure.

1. VA may disclose on its own initiative any information in this system, except the names and home addresses of Veterans and their family members or caregivers which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature, and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, Tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of Veterans, their family members or caregivers to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

2. The name and address of a Veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to any foreign, State or local governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name and address be provided for a purpose authorized by law.

3. Volunteer records may be used to confirm volunteer service, duty schedule, and assignments to service organizations, Bureau of Unemployment, insurance firms, office of personnel of the individual's fulltime employment; to assist in the development of VA history of the volunteer and his/her assignments; and to confirm voluntary hours for on-the job accidents, and for recognition awards.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made to the National Archives and Records Administration and to General Services Administration in records management inspections conducted under authority of 44 U.S.C.

6. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

7. Relevant information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement. VA occasionally contracts out certain of its functions when this would contribute to effective and efficient operations.

8. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

9. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency) that rely upon the compromised information; and (3) the disclosure is to agencies, entities,

or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise, and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Digital information of all active volunteers is maintained in Martinsburg, West Virginia, on secured Webservers. Paper documents for all active volunteers are maintained in locked file cabinets at the individual VA facilities where the volunteer has donated time. Computer files containing basic information, such as name, address, date of birth, volunteer assignments, hours/years volunteered, and award information are retained for all volunteers, either active or inactive, at the VA facility where the volunteer worked.

POLICIES AND PRACTICES FOR RETRIEVABILITY OF RECORDS:

(a) All volunteer records are filed by name and unique identification numbers within the VA's VSS, and are cross-referenced under the organization(s) they represent.

(b) Health records are stored by name and Social Security number in the VISTA patient files, but are not retrievable through VSS.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. The individual volunteer's record of service is maintained by the VA health care facility, as long as he or she is living and actively participating in the VAVS program. VSS maintains minimum information on all volunteers indefinitely. These minimum records include the volunteer's name, address, date of birth, telephone number, next of kin information, assignments worked, hours and years of service, and last award received.

2. Depending on the record medium, records are destroyed by either shredding or degaussing. Summary reports and other output reports are destroyed when no longer needed for current operation. Regardless of record medium, no records will be retired to a Federal records center.

PHYSICAL, PROCEDURAL, AND ADMINISTRATIVE SAFEGUARDS:

1. Access to VA working space and medical record storage areas and the Web-servers in Martinsburg, West Virginia, is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Volunteer file records of sensitive medical record files are stored in separate locked files.

2. Strict control measures are enforced to ensure that access to and disclosure from all records including electronic files and volunteer specific data elements stored in the VSS are limited to VA Voluntary Service (VAVS) employees whose official duties warrant access to those files. The automated record system recognizes authorized users by keyboard entry of a series of unique passwords. Once the employee is logged onto the system, access to files is controlled by discreet menus, which are assigned by the VSS package local system administrator based upon the employee's demonstrated need to access the data to perform the employee's assigned duties. A number of other security measures are implemented to enhance security of electronic records (automatic timeout after short period of inactivity, device locking after pre-set number of invalid logon attempts, etc.). Employees are required to sign a user access agreement acknowledging their knowledge of confidentiality requirements, and all employees receive annual training on information security. Access is deactivated when no longer required for official duties. Recurring monitors are in place to ensure compliance with nationally and locally established security measures.

3. Online data resides on VSS Webservers in Martinsburg, West Virginia, that are highly secured.

4. Any sensitive information that may be downloaded or printed to hard copy format is provided the same level of security as the electronic records. All paper documents and informal notations containing sensitive data are shredded prior to disposal.

5. All new VAVS employees receive initial information security training, and refresher training is provided to all employees on an annual basis.

SYSTEM MANAGER(S):

Official responsible for policies and procedures: Director, Voluntary Service Office (10B2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Official maintaining the system: Technatomy Contractor, Jay Singh, VHA Oakland OIFO, 1301 Clay Street, Suite 1350N, Oakland, California 94612.

RECORD ACCESS PROCEDURE:

Volunteers, dependents, survivors or duly authorized representatives seeking information regarding access to and contesting of VAVS records may contact the Voluntary Service office at the VA health care facility where the individual served as a volunteer.

CONTESTING RECORD PROCEDURES:

(*See* Record Access Procedures above.)

NOTIFICATION PROCEDURE:

Individuals seeking information concerning the existence and content of their service records must submit a written request to Director, Voluntary Service Office (10B2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *VHACO10B2AStaff@va.gov* or inquire in person at the VA health care facility where their voluntary service was accomplished. All inquiries must reasonably identify, to the VA facility, the portion of the volunteer's service record they want information about and the approximate dates of service, in order to receive that information. Inquiries should include the volunteer's name, organization represented, date of birth, and last address while serving as a volunteer to the VA.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

[FR Doc. 2016–20606 Filed 8–26–16; 8:45 am]

BILLING CODE 8320–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

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No. 167 August 29, 2016

Part II

Environmental Protection Agency

40 CFR Part 60
Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2014–0451; FRL–9949–55–OAR]

RIN 2060–AS23

Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a new subpart that updates the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (Emission Guidelines). The EPA reviewed the landfills Emission Guidelines based on changes in the landfills industry since the Emission Guidelines were promulgated in 1996. The EPA's review of the Emission Guidelines for municipal solid waste (MSW) landfills considered landfills that accepted waste after November 8, 1987, and commenced construction, reconstruction, or modification on or before July 17, 2014. Based on this review, the EPA has determined that it is appropriate to revise the Emission Guidelines to reflect changes to the population of landfills and the results of an analysis of the timing and methods for reducing emissions. This action will achieve additional reductions in emissions of landfill gas and its components, including methane, by lowering the emissions threshold at which a landfill must install controls. This action also incorporates new data and information received in response to an advanced notice of proposed rulemaking and a proposed rulemaking and addresses other regulatory issues including surface emissions monitoring, wellhead monitoring, and the definition of landfill gas treatment system.

The revised Emission Guidelines, once implemented through revised state plans or a revised federal plan, will reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. Landfills are a significant source of methane, which is a potent greenhouse gas pollutant. These avoided emissions will improve air quality and reduce the potential for public health and welfare effects associated with exposure to landfill gas emissions.

DATES: This final rule is effective on October 28, 2016.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2014–0451. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For information concerning this final rule, contact Ms. Hillary Ward, Fuels and Incineration Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3154; fax number: (919) 541–0246; email address: *ward.hillary@epa.gov*.

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

ANPRM	Advance notice of proposed rulemaking
ANSI	American National Standards Institute
BMP	Best management practice
Btu	British thermal unit
CAA	Clean Air Act
CBI	Confidential business information
CDX	Central Data Exchange
CEDRI	Compliance and Emissions Data Reporting Interface
CFR	Code of Federal Regulations
CO_2	Carbon dioxide
CO_2e	Carbon dioxide equivalent
EPA	Environmental Protection Agency
ERT	Electronic Reporting Tool
FID	Flame ionization detector
GCCS	Gas collection and control system
GHG	Greenhouse gas
GHGRP	Greenhouse Gas Reporting Program
GWP	Global warming potential
HAP	Hazardous air pollutant
HOV	Higher operating value
IAMS	Integrated assessment models
ICR	Information collection request
IPCC	Intergovernmental Panel on Climate Change
IWG	Interagency working group
LFG	Landfill gas
LFGCost	Landfill Gas Energy Cost Model
m^3	Cubic meters
Mg	Megagram
Mg/yr	Megagram per year
mph	Miles per hour
MSW	Municipal solid waste
mtCO_2e	Metric tons of carbon dioxide equivalent
MW	Megawatt
MWh	Megawatt hour
NAICS	North American Industry Classification System
NESHAP	National Emission Standards for Hazardous Air Pollutants
NMOC	Nonmethane organic compound
NRC	National Research Council
NSPS	New source performance standards
NTTAA	National Technology Transfer and Advancement Act
OAQPS	Office of Air Quality Planning and Standards
OMB	Office of Management and Budget
PM	Particulate matter
$PM_{2.5}$	Fine particulate matter
ppm	Parts per million
ppmvd	Parts per million by dry volume
RCRA	Resource Conservation and Recovery Act
RD&D	Research, development, and demonstration
RFA	Regulatory Flexibility Act
SBAR	Small Business Advocacy Review
SC–CH_4	Social cost of methane
SC–CO_2	Social cost of carbon dioxide
SEM	Surface emissions monitoring
SO_2	Sulfur dioxide
SSM	Startup, shutdown, and malfunction
Tg	Teragram
TIP	Tribal implementation plan
TTN	Technology Transfer Network
U.S.	United States
USGCRP	U.S. Global Change Research Program
VCS	Voluntary consensus standard
VOC	Volatile organic compound

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I. Executive Summary

A. Purpose of Regulatory Action

This action finalizes changes to the MSW landfills Emission Guidelines resulting from the EPA's review of the Emission Guidelines under Clean Air Act (CAA) section 111. The EPA's review identified a number of advances in technology and operating practices for reducing emissions of landfill gas (LFG) and the final changes are based on our evaluation of those advances and our understanding of LFG emissions. The resulting changes to the Emission Guidelines will achieve additional reductions in emissions of LFG and its components, including methane. This final rule is consistent with the President's 2013 Climate Action Plan,[1] which directs federal agencies to focus on "assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions, and identifying existing authorities and incentive-based opportunities to reduce methane emissions." The final rule is also consistent with the President's Methane Strategy,[2] which directs the EPA's regulatory and voluntary programs to continue to pursue emission reductions through regulatory updates and to encourage LFG energy recovery through voluntary programs. These directives are discussed in detail in section III.A of this preamble. This regulatory action also resolves or clarifies several implementation issues that were previously addressed in amendments proposed on May 23, 2002 (67 FR 36475) and September 8, 2006 (71 FR 53271).

1. Need for Regulatory Action

The EPA reviewed the Emission Guidelines to determine the potential for achieving additional reductions in emissions of LFG. Significant changes have occurred in the landfill industry over time, including changes to the size and number of existing landfills, industry practices, and gas control methods and technologies. Based on the EPA's review, we are finalizing changes to the Emission Guidelines. The changes will achieve additional emission reductions of LFG and its components (including methane), which will reduce air pollution and the resulting harm to public health and welfare. Landfills are a significant source of methane, a potent greenhouse gas, for which there are cost-effective means of reduction, so this rule is an important element of the United States' work to reduce emissions that are contributing to climate change. In addition, the changes provide more effective options for demonstrating compliance, and provide clarification of several implementation issues raised during the amendments proposed in 2002 and 2006. Additional information supporting the EPA's decision to review the Emission Guidelines can be found in Section I.A. of the Emission Guidelines proposal (80 FR 52100, August 27, 2015).

2. Legal Authority

The EPA is not statutorily obligated to conduct a review of the Emission Guidelines, but has the discretion to do so when circumstances indicate that it is appropriate. The EPA determined that it was appropriate to review the Emission Guidelines based on changes in the landfill industry and changes in operation of landfills, including the size, trends in gas collection and control system installations, and age of landfills since the Emission Guidelines were promulgated in 1996. The EPA compiled new information on landfills through data collection efforts for a statutorily mandated review of the existing new source performance standards (NSPS) (40 CFR part 60, subpart WWW), public comments received on the NSPS proposal (79 FR 41796, July 17, 2014), public comments received on the Advance Notice of Proposed Rulemaking (ANPRM) (79 FR 41772, July 17, 2014), and public comments received on the Emission Guidelines proposal (80 FR 52100, August 27, 2015) for use in reviewing the Emission Guidelines. This information allowed the EPA to assess current practices, emissions, and the potential for additional emission reductions.

The EPA interprets CAA section 111(d) as providing discretionary authority to update emission guidelines, and by extension to require states to update standards of performance, in appropriate circumstances. The EPA believes this is the best, and perhaps only, permissible interpretation of the CAA. It is consistent with the gap filling nature of section 111(d), the general purposes of the CAA to protect and enhance air quality. Moreover, this is supported because Congress's grant of authority to issue regulations carries with it the authority to amend or update regulations[3] that they have issued.[4] "Regulatory agencies do not establish rules of conduct to last forever; they are supposed, within the limits of the law and of fair and prudent administration, to adapt their rules and practices to the Nation's needs in a volatile, changing economy. They are neither required nor supposed to regulate the present and the future within the inflexible limits of yesterday."[5]

To interpret the CAA otherwise would mean that Congress intended to allow existing sources to operate forever without any consideration of the need for updated controls simply because, at some point in the distant past, the EPA had previously required these sources to be regulated. The EPA's interpretation is consistent with the gap filling nature of section 111(d), whereas the opposite interpretation would undermine it. By its terms, section 111(d) was designed to address emissions from existing sources of non-national ambient air quality standards (NAAQS), non-CAA section 112 hazardous air pollutants.[6] A one-off approach would mean that the EPA would be unable to address the threats from these sources even as we improve our understanding of the danger presented by the pollutant at issue or new or improved control options become available. Indeed, this lack of authority would exist even in cases such as the instant one where some affected sources had not yet been required to invest in emission controls.

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[1] Executive Office of the President, "The President's Climate Action Plan" June 2013. *https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.*

[2] Executive Office of the President, "Climate Action Plan Strategy to Reduce Methane, March 2014. *https://www.whitehouse.gov/sites/default/files/strategy_to_reduce_methane_emissions_2014-03-28_final.pdf.*

[3] Congress has provided the Agency with broad authority to issue regulations "as necessary to carry out [her] functions under" the Act. This broad grant of authority further supports the reasonableness of EPA's interpretation.

[4] *See Trujillo* v. *General Electric Co.*, 621 F.2d 1084, 1086 (10th Cir. 1980) ("Administrative agencies have an inherent authority to reconsider their own decisions, since the power to decide in the first instance carries with it the power to reconsider.") (citing *Albertson* v. *FCC*, 182 F.2d 397, 399 (D.C. Cir. 1950)). See 621 F.2d at 1088 ("The authority to reconsider may result in some instances, as it did here, in a totally new and different determination.").

[5] *American Trucking Ass'n* v. *Atchison, Topeka & Santa Fe Ry.*, 387 U.S. 397, 416 (1967).

The overall structure of the CAA also supports EPA's interpretation. The primary goal of the CAA is: "[T]o protect and enhance the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." CAA section 101(b)(1), 42 U.S.C. 7401(b)(1). The CAA goes about this in a number of ways. Under section 111 the chosen approach is through the identification of the best system of emission reduction available to reduce emissions to the atmosphere which takes into account the cost of achieving such reductions and any nonair quality health and environmental impact and energy requirements. These systems change over time. Where such changes have the effect of substantially reducing harmful air emissions, it would be illogical that the EPA would be precluded from requiring existing sources to update their controls in recognition of those changes, particularly when those sources may continue to operate for decades. Similarly, if, after a rule was finalized, factual information were to arise revealing that the initial standards were too stringent to be met, it would be illogical that EPA would be precluded from revising the standards accordingly. Had Congress intended to preclude the EPA from updating the emission guidelines to reflect changes, it would surely have specifically said so, something it did not do.

The fact that the EPA has the authority to update the emission guidelines does not, however, mean that it is unconstrained in exercising that authority. Rather, the decision whether to update a particular set of emission guidelines must be made on a rule-specific basis after considering the same factors the EPA considered in establishing those guidelines, including the level of reductions achievable and the cost of achieving those reductions, and, as appropriate, taking into account controls sources installed to comply with the initial emission guidelines. The EPA has determined that it is appropriate to update the emission guidelines for municipal solid waste (MSW) landfills. The EPA's final rule is not a requirement to install new and different control equipment (compared to the existing rule), but rather to install the same basic controls, *i.e.*, a well-designed and well-operated landfill gas collection and control system, on an accelerated basis. While this will result in some additional cost, the EPA believes that cost is fully justified given the substantial reduction in emissions of landfill gas and its constituent components, including methane, that will result. As indicated in the final rule, lowering the threshold above which landfill owners/operators must install a gas collection and control system from 50 Mg of non-methane organic compounds (NMOC) per year to 34 Mg/year will result in an additional reduction in NMOC emissions of 1,810 Mg/yr and a concomitant reduction in methane emissions of 0.285 million Mg/yr. In these circumstances, the EPA believes that it not only has the legal authority to update the emission guidelines, but that doing so imminently reasonable.

B. Summary of Major Provisions

The final Emission Guidelines apply to landfills that accepted waste after November 8, 1987,[7] and that commenced construction, reconstruction, or modification on or before July 17, 2014 (the date of publication of proposed revisions to the landfills NSPS, 40 CFR part 60, subpart XXX). The final rule provisions are described below.

Thresholds for Installing Controls. The final Emission Guidelines retain the current design capacity thresholds of 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3), but reduce the nonmethane organic compounds (NMOC) emission threshold for the installation and removal of a gas collection and control system (GCCS) from 50 Mg/yr to 34 Mg/yr for landfills that are not closed as of September 27, 2017. (A megagram is also known as a metric ton, which is equal to 1.1 U.S. short tons or about 2,205 pounds.) An MSW landfill that exceeds the design capacity thresholds must install and start up a GCCS within 30 months after LFG emissions reach or exceed an NMOC level of 34 Mg/yr. Consistent with the existing Emission Guidelines, the owner or operator of a landfill may control the gas by routing it to a non-enclosed flare, an enclosed combustion device, or a treatment system that processes the collected gas for subsequent sale or beneficial use.

Emission Threshold Determination. The EPA is finalizing an alternative site-specific emission threshold determination methodology for when a landfill must install and operate a GCCS. This alternative methodology, referred to as "Tier 4," is based on surface emissions monitoring (SEM) and demonstrates whether or not surface emissions are below a specific threshold. The Tier 4 SEM demonstration allows landfills that exceed the threshold using modeled NMOC emission rates using Tier 1 or 2 to demonstrate that actual site-specific surface methane emissions are below a specific threshold. A landfill that can demonstrate that surface emissions are below 500 parts per million (ppm) for four consecutive quarters does not trigger the requirement to install a GCCS even if Tier 1, 2, or 3 calculations indicate that the 34 Mg/yr threshold has been exceeded. Landfills that have calculated NMOC emissions of 50 Mg/yr or greater are not eligible for the Tier 4 emission threshold determination in order to prevent conflicting requirements between subpart Cf and the landfills NESHAP (40 CFR part 63, subpart AAAA). Many landfills that are subject to subpart Cf will also be subject to the landfills NESHAP. The landfills NESHAP requires landfills that exceed the size threshold (2.5 million Mg and 2.5 million m^3) and exceed the NMOC emissions threshold (50 Mg/yr) to install and operate a GCCS.

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[6] CAA subsection 111(d)(1)(A)(i), provides that regulation under CAA section 111(d) is intended to cover pollutants that are not regulated under either the criteria pollutant/NAAQS provisions or section 112 of the CAA. Thus, section 111(d) is designed to regulate pollutants from existing sources that fall in the gap not covered by the criteria pollutant provisions or the hazardous air pollutant provisions. This gap-filling purpose can be seen in the early legislative history of the CAA. As originally enacted in the 1970 CAA, the precursor to CAA section 111 (which was originally section 114) was described as covering pollutants that would not be controlled by the criteria pollutant provisions or the hazardous air pollutant provisions. See S. Committee Rep. to accompany S. 4358 (Sept. 17, 1970), 1970 CAA Legis. Hist. at 420 ("It should be noted that the emission standards for pollutants which cannot be considered hazardous (as defined in section 115 [which later became section 112]) could be established under section 114 [later, section 111]. Thus, there should be no gaps in control activities pertaining to stationary source emissions that pose any significant danger to public health or welfare."); Statement by S. Muskie, S. Debate on S. 4358 (Sept. 21, 1970), 1970 CAA Legis. Hist. at 227 ("[T]he bill [in section 114] provides the Secretary with the authority to set emission standards for selected pollutants which cannot be controlled through the ambient air quality standards and which are not hazardous substances.").

[7] This date in 1987 is the date on which permit programs were established under the Hazardous and Solid Waste Amendments of the Resource, Conservation and Recovery Act (RCRA) which amended the Solid Waste Disposal Act (SWDA), 42 U.S.C. 6901–6992k. This date was also selected as the regulatory cutoff in the Emission Guidelines for landfills no longer receiving wastes because the EPA judged states would be able to identify active facilities as of this date.

Closed Landfill Subcategory. Because closed landfills do not produce as much LFG as an active landfill, the EPA is finalizing a separate subcategory for landfills that close on or before September 27, 2017. Landfills in this subcategory will continue to be subject to an NMOC emission threshold of 50 Mg/yr for determining when controls must be installed or can be removed.

Low LFG Producing Areas. The EPA is also finalizing criteria for determining when it is appropriate to cap or remove all or a portion of the GCCS. The final criteria for capping or removing all or a portion of the GCCS are: (1) The landfill is closed, (2) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) the calculated NMOC emission rate at the landfill is less than 34 Mg/yr on three successive test dates. The final rule does not contain a GCCS removal criterion based on surface emissions monitoring.

Landfill Gas Treatment. In the final Emission Guidelines, the EPA has addressed two issues related to LFG treatment. First, the EPA is clarifying that the use of treated LFG is not limited to use as a fuel for a stationary combustion device but may be used for other beneficial uses such as vehicle fuel, production of high-British thermal unit (Btu) gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Second, the EPA is finalizing a definition of *treated landfill gas* that applies to LFG processed in a treatment system meeting the requirements in 40 CFR part 60, subpart Cf, and defining *treatment system* as a system that filters, de-waters, and compresses LFG for sale or beneficial use. The definition of treatment system allows the level of treatment to be tailored to the type and design of the specific combustion equipment or the other beneficial use such as vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process in which the LFG is used. Owners or operators must develop a site-specific treatment system monitoring plan that includes monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for the intended end use of the treated LFG. They also must keep records that demonstrate that such parameters effectively monitor filtration, de-watering, and compression system performance necessary for the end use of the treated LFG.

Wellhead Operational Standards. The EPA is finalizing changes to certain operational standards (*i.e.,* the requirement to meet specific operating limits) for nitrogen/oxygen level at the wellheads. Landfill owners or operators are not required to take corrective action based on exceedances of specified operational standards for nitrogen/oxygen levels at wellheads, but they must continue to monitor and maintain records of nitrogen/oxygen levels on a monthly basis in order to inform any necessary adjustments to the GCCS and must maintain records of monthly readings. The operational standard, corrective action, and corresponding recordkeeping and reporting remain for temperature and maintaining negative pressure at the wellhead.

Surface Monitoring. The EPA is finalizing a requirement to monitor all surface penetrations at existing landfills. In final 40 CFR part 60, subpart Cf, landfills must conduct SEM at all cover penetrations and openings within the area of the landfill where waste has been placed and a gas collection system is required to be in place and operating according to the operational standards in final 40 CFR part 60, subpart Cf. Specifically, landfill owners or operators must conduct surface monitoring on a quarterly basis at the specified intervals and where visual observations indicate elevated concentrations of LFG, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations.

Startup, Shutdown, and Malfunction. The EPA is finalizing a requirement that standards of performance in the Emission Guidelines apply at all times, including periods of startup, shutdown, and malfunction (SSM). The EPA is also finalizing an alternative standard during SSM events: In the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere must be closed within 1 hour of the collection or control system not operating.

Other Clarifications. The EPA is finalizing a number of clarifications to address several issues that have been raised by landfill owners or operators during implementation of the current NSPS and Emission Guidelines. These clarifications include adding criteria for when an affected source must update its design plan and clarifying when landfill owners or operators must submit requests to extend the timeline for taking corrective action. The EPA is also updating several definitions in the Emission Guidelines. In addition, while the EPA is not mandating organics diversion, we are finalizing two specific compliance flexibilities in the Emission Guidelines to encourage wider adoption of organics diversion and GCCS best management practices (BMPs) for emission reductions at landfills. These compliance flexibilities are discussed in section V.A.1 and VI.A.1 (wellhead monitoring) and section V.B and section VI.B (Tier 4 emission threshold determination) of this preamble.

C. Costs and Benefits

The final Emission Guidelines are expected to significantly reduce emissions of LFG and its components, which include methane, volatile organic compounds (VOC), and hazardous air pollutants (HAP). Landfills are a significant source of methane emissions, and in 2014, landfills represented the third largest source of human-related methane emissions in the U.S. This rulemaking applies to existing landfills that commenced construction, modification, or reconstruction on or before July 17, 2014 and accepted waste after 1987. The EPA estimates 1,851 existing landfills that accepted waste after 1987 and opened prior to 2014.

To comply with the emission limits in the final rule, MSW landfill owners or operators are expected to install the least-cost control for collecting, and treating or combusting LFG. The annualized net cost for the final Emission Guidelines is estimated to be $54.1 million (2012$) in 2025, when using a 7 percent discount rate. The annualized costs represent the costs compared to no changes to the current Emission Guidelines (*i.e.,* baseline) and include $92.6 million to install and operate a GCCS, as well as $0.76 million to complete the corresponding testing and monitoring. These control costs are offset by $39.3 million in revenue from electricity sales, which is incorporated into the net control costs for certain landfills that are expected to generate revenue by using the LFG to produce electricity.

Installation of a GCCS to comply with the 34 Mg/yr NMOC emissions threshold at open landfills would achieve reductions of 1,810 Mg/yr NMOC and 285,000 metric tons methane (about 7.1 million metric tons of carbon dioxide equivalent ($mtCO_2e$)) beyond the baseline in year 2025. In addition, the final rule is expected to result in the net reduction of an additional 277,000 Mg CO_2, due to reduced demand for electricity from the grid as landfills generate electricity from LFG. The NMOC portion of LFG can contain a variety of air pollutants, including VOC and various organic HAP. VOC emissions are precursors to both fine particulate matter ($PM_{2.5}$) and ozone formation. These pollutants, along with methane, are associated with substantial health effects, welfare effects, and climate effects. The EPA expects that the reduced emissions will result in improvements in air quality and lessen the potential for health effects associated with exposure to air pollution related emissions, and result in climate benefits due to reductions of the methane component of LFG.

The EPA estimates that the final rule's estimated methane emission reductions and secondary CO_2 emission reductions in the year 2025 would yield global monetized climate benefits of $200 million to approximately $1.2 billion, depending on the discount rate. Using the average social cost of methane (SC–CH_4) and the average social cost of CO_2 (SC–CO_2), each at a 3-percent discount rate, results in an estimate of about $440 million in 2025 (2012$).

The SC–CH_4 and SC–CO_2 are the monetary values of impacts associated with marginal changes in methane and CO_2 emissions, respectively, in a given year. It includes a wide range of anticipated climate impacts, such as net changes in agricultural productivity, property damage from increased flood risk, and changes in energy system costs, such as reduced costs for heating and increased costs for air conditioning.

With the data available, we are not able to provide health benefit estimates for the reduction in exposure to HAP, ozone, and $PM_{2.5}$ for this rule. This is not to imply that there are no such benefits of the rule; rather, it is a reflection of the difficulties in modeling the direct and indirect impacts of the reductions in emissions for this sector with the data currently available.

Based on the monetized benefits and costs, the annual net benefits of the final guidelines are estimated to be $390 million ($2012) in 2025, based on the average SC–CH_4 at a 3 percent discount rate, average SC–CO_2 at a 3 percent discount rate, and costs at a 7 percent discount rate.

II. General Information

A. Does this action apply to me?

This final rule addresses existing MSW landfills, *i.e.*, landfills accepting waste after 1987 and on which construction was commenced on or before July 17, 2014, and associated solid waste management programs. Potentially affected categories include those listed in Table 1 of this preamble.

TABLE 1—REGULATED ENTITIES

Category	NAICS[a]	Examples of affected facilities
Industry: Air and water resource and solid waste management	924110	Solid waste landfills.
Industry: Refuse systems—solid waste landfills	562212	Solid waste landfills.
State, local, and tribal government agencies	924110	Administration of air and water resource and solid waste management programs.

[a] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the new subpart. To determine whether your facility would be regulated by this action, you should carefully examine the applicability criteria in final 40 CFR 60.32f of subpart Cf. If you have any questions regarding the applicability of the final subpart to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available through EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this action at *http://www.epa.gov/ttnatw01/landfill/landflpg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of this final rule and technical documents at this same Web site.

III. Background

The Emission Guidelines for MSW landfills were promulgated on March 12, 1996, and subsequently amended on June 16, 1998, February 24, 1999, and April 10, 2000, to make technical corrections and clarifications. Amendments were proposed on May 23, 2002, and September 8, 2006, to address implementation issues, but those amendments were never finalized. On July 17, 2014, the EPA issued an ANPRM for the MSW landfills Emission Guidelines (79 FR 41772). The purpose of that action was to request public input on controls and practices that could further reduce emissions from existing MSW landfills and to evaluate that input to determine if changes to the Emission Guidelines were appropriate. On July 17, 2014, the EPA issued a concurrent proposal for revised NSPS for new MSW landfills (79 FR 41796). On August 27, 2015 (80 FR 52100), the EPA proposed a review of the Emission Guidelines to build on progress to date to (1) Achieve additional reductions in emissions of LFG and its components, (2) account for changes in the landfill industry and changes in operation of the landfills, including the size, trends in GCCS installations, and age of landfills, as reflected in new data, (3) provide new options for demonstrating compliance, and (4) to complete efforts regarding unresolved implementation issues. The EPA considered information it received in response to the ANPRM (79 FR 41772) and Notice of Proposed Rulemaking (80 FR 52100) for existing landfills in evaluating these final Emission Guidelines. We are also finalizing some of the amendments proposed on May 23, 2002, and September 8, 2006 to improve implementation of the Emission Guidelines. The respective frameworks of NSPS and Emission Guidelines have been similar since they were first promulgated in 1996 (*e.g.*, size threshold, emission threshold, monitoring requirements, etc). In response to public comments, which include implementation concerns associated with the potential for different approaches and requirements between revised final rules, the EPA is finalizing similar requirements for the NSPS and Emission Guidelines.

A. Landfill Gas Emissions and Climate Change

In June 2013, President Obama issued a Climate Action Plan that directed federal agencies to focus on "assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions, and identifying existing authorities and incentive-based opportunities to reduce methane emissions."[8] Methane is a potent greenhouse gas (GHG) that is 28–36 times greater than carbon dioxide (CO_2) and has an atmospheric life of about 12 years.[9] Because of methane's potency as a GHG and its atmospheric life, reducing methane emissions is one of the best ways to achieve near-term beneficial impact in mitigating global climate change.

The "Climate Action Plan: Strategy to Reduce Methane Emissions"[10] (the Methane Strategy) was released in March 2014. The strategy recognized the methane reductions achieved through the EPA's regulatory and voluntary programs to date. It also directed the EPA to continue to pursue emission reductions through regulatory updates and to encourage LFG energy recovery through voluntary programs.

The EPA recognized the climate benefits associated with reducing methane emissions from landfills nearly 25 years ago. The 1991 NSPS Background Information Document[11] asserted that the reduction of methane emissions from MSW landfills was one of many options available to reduce global warming. The NSPS for MSW landfills, promulgated in 1996, also recognized the climate co-benefits of controlling methane (61 FR 9917, March 12, 1996).

A recent study assessed EPA regulations and voluntary programs over the period 1993–2013 and found that they were responsible for the reduction of about 130 million metric tons of methane emissions (equal to about 18 percent of the total U.S. methane emissions over that time period), leading to a reduction in atmospheric concentrations of methane of about 28 parts per billion in 2013[12] (compared to an observed increase in methane concentrations of about 80 ppb over those 20 years).

The review and final revision of the MSW landfills Emission Guidelines capitalizes on additional opportunities to achieve methane reductions while acknowledging historical agency perspectives and research on climate, a charge from the President's Climate Action Plan, the Methane Strategy, and improvements in the science surrounding GHG emissions.

LFG is a collection of air pollutants, including methane and NMOC. LFG is typically composed of 50-percent methane, 50-percent CO_2, and less than 1-percent NMOC by volume. The NMOC portion of LFG can contain various organic HAP and VOC. When the Emission Guidelines and NSPS were promulgated in 1996, NMOC was selected as a surrogate for MSW LFG emissions because NMOC contains the air pollutants that at that time were of most concern due to their adverse effects on public health and welfare. Today, methane's effects on climate change are also considered important. In 2014, methane emissions from MSW landfills represented 18.2 percent of total U.S. methane emissions and 1.9 percent of total U.S. GHG emissions (in carbon dioxide equivalent (CO_2e)).[13] In 2014, MSW landfills continued to be the third largest source of human-related methane emissions in the U.S., releasing an estimated 133.1 million metric tons of CO_2e. For these reasons and because additional emissions reductions can be achieved at a reasonable cost, the EPA is finalizing changes to the Emission Guidelines that are based on reducing the NMOC and methane components of LFG.

B. What are the public health and welfare effects of landfill gas emissions?

1. Public Health Effects of VOC and Various Organic HAP

VOC emissions are precursors to both $PM_{2.5}$ and ozone formation. As documented in previous analyses (U.S. EPA, 2006[14], 2010[15], and 2014[16]), exposure to $PM_{2.5}$ and ozone is associated with significant public health effects. $PM_{2.5}$ is associated with health effects, including premature mortality for adults and infants, cardiovascular morbidity such as heart attacks, and respiratory morbidity such as asthma attacks, acute bronchitis, hospital admissions and emergency room visits, work loss days, restricted activity days and respiratory symptoms, as well as welfare impacts such as visibility impairment.[17] Ozone is associated with public health effects, including hospital and emergency department visits, school loss days and premature mortality, as well as ecological effects (*e.g.*, injury to vegetation and climate change).[18] Nearly 30 organic HAP have been identified in uncontrolled LFG, including benzene, toluene, ethyl benzene, and vinyl chloride.[19] Benzene is a known human carcinogen.

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[8] Executive Office of the President, "The President's Climate Action Plan" June 2013. *https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.*

[9] The IPCC updates GWP estimates with each new assessment report, and in the latest assessment report, AR5, the latest estimate of the methane GWP ranged from 28–36, compared to a GWP of 25 in AR4. The impacts analysis in this final rule is based on the 100-year GWP from AR4 (25) instead of AR5 to be consistent with and comparable to key Agency emission quantification programs such as the Inventory of Greenhouse Gas Emissions and Sinks (GHG Inventory), and the GHGRP.

[10] Executive Office of the President, "Climate Action Plan Strategy to Reduce Methane, March 2014. *https://www.whitehouse.gov/sites/default/files/strategy_to_reduce_methane_emissions_2014-03-28_final.pdf.*

[11] Air Emissions from Municipal Solid Waste Landfills-Background Information for Proposed Standards and Guidelines, U.S. EPA (EPA–450/3–90–011a) (NTIS PB 91–197061) page 2–15.

[12] Melvin, A.M.; Sarofim, M.C.; Crimmins, A.R., "Climate benefits of U.S. EPA programs and policies that reduced methane emissions 1993–2013", Environmental Science & Technology, 2016, in press. *http://pubs.acs.org/doi/pdf/10.1021/acs.est.6b00367.* DOI 10.1021/acs.est.6b00367.

[13] Total U.S. methane emissions were 731 teragrams (Tg) CO_2e and total U.S. GHG emissions were 6,870.5 Tg in 2014. A teragram is equal to 1 million Mg. (A megagram is also known as a metric ton, which is equal to 1.1 U.S. short tons or about 2,205 pounds.) U.S. EPA "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2014." Table ES–2. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html.*

[14] U.S. EPA. *RIA. National Ambient Air Quality Standards for Particulate Matter,* Chapter 5. Office of Air Quality Planning and Standards, Research Triangle Park, NC. October 2006. Available on the Internet at *http://www.epa.gov/ttn/ecas/regdata/RIAs/Chapter%205-Benefits.pdf.*

[15] U.S. EPA. *RIA. National Ambient Air Quality Standards for Ozone.* Office of Air Quality Planning and Standards, Research Triangle Park, NC. January 2010. Available on the Internet at *http://www.epa.gov/ttn/ecas/regdata/RIAs/s1-supplemental_analysis_full.pdf.*

[16] U.S. EPA. *RIA. National Ambient Air Quality Standards for Ozone.* Office of Air Quality Planning and Standards, Research Triangle Park, NC. December 2014. Available on the Internet at *http://www.epa.gov/ttnecas1/regdata/RIAs/20141125ria.pdf.*

[17] U.S. EPA. Integrated Science Assessment for Particulate Matter (Final Report). EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. December 2009. Available at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546.*

[18] U.S. EPA. Air Quality Criteria for Ozone and Related Photochemical Oxidants (Final). EPA/600/R–05/004aF–cF. Washington, DC: U.S. EPA. February 2006. Available on the Internet at *http://cfpub.epa.gov/ncea/CFM/recordisplay.cfm?deid=149923.*

[19] U.S. EPA. 1998. Office of Air and Radiation, Office of Air Quality Planning and Standards. "Compilation of Air Pollutant Emission Factors, Fifth Edition, Volume I: Stationary Point and Area Sources, Chapter 2: Solid Waste Disposal, Section 2.4: Municipal Solid Waste Landfills". Available at: *http://www.epa.gov/ttn/chief/ap42/ch02/final/c02s04.pdf.*

2. Climate Impacts of Methane Emissions

In addition to the improvements in air quality and resulting benefits to human health and the non-climate welfare effects discussed above, reducing emissions from landfills is expected to result in climate co-benefits due to reductions of the methane component of LFG. Methane is a potent GHG with a global warming potential (GWP) 28–36 times greater than CO_2, which accounts for methane's stronger absorption of infrared radiation per ton in the atmosphere, but also its shorter lifetime (on the order of 12 years compared to centuries or millennia for CO_2).[20] [21] According to the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report, methane is the second leading long-lived climate forcer after CO_2 globally.[22]

Methane is also a precursor to ground-level ozone, which can cause a number of harmful effects on public health and the environment. Additionally, ozone is a short-lived climate forcer that contributes to global warming.

In 2009, based on a large body of robust and compelling scientific evidence, the EPA Administrator issued an Endangerment Finding under CAA section 202(a)(1).[23] In the Endangerment Finding, the Administrator found that the current, elevated concentrations of GHGs in the atmosphere—already at levels unprecedented in human history—may reasonably be anticipated to endanger public health and welfare of current and future generations in the U.S. We summarize these adverse effects on public health and welfare briefly here.

3. Public Health Impacts Detailed in the 2009 Endangerment Finding

The 2009 Endangerment Finding documented that climate change caused by human emissions of GHGs threatens the health of Americans. By raising average temperatures, climate change increases the likelihood of heat waves, which are associated with increased deaths and illnesses. While climate change also increases the likelihood of reductions in cold-related mortality, evidence indicates that the increases in heat mortality will be larger than the decreases in cold mortality in the United States. Compared to a future without climate change, climate change is expected to increase ozone pollution over broad areas of the U.S., including in the largest metropolitan areas with the worst ozone problems, and thereby increase the risk of morbidity and mortality. Climate change is also expected to cause more intense hurricanes and more frequent and intense storms of other types and heavy precipitation, with impacts on other areas of public health, such as the potential for increased deaths, injuries, infectious and waterborne diseases, and stress-related disorders. Children, the elderly, and the poor are among the most vulnerable to these climate-related health effects.

4. Public Welfare Impacts Detailed in the 2009 Endangerment Finding

The 2009 Endangerment Finding documented that climate change impacts touch nearly every aspect of public welfare. Among the multiple threats caused by human emissions of GHGs, climate changes are expected to place large areas of the country at serious risk of reduced water supplies, increased water pollution, and increased occurrence of extreme events such as floods and droughts. Coastal areas are expected to face a multitude of increased risks, particularly from rising sea level and increases in the severity of storms. These communities face storm and flooding damage to property, or even loss of land due to inundation, erosion, wetland submergence and habitat loss.

Impacts of climate change on public welfare also include threats to social and ecosystem services. Climate change is expected to result in an increase in peak electricity demand. Extreme weather from climate change threatens energy, transportation, and water resource infrastructure. Climate change may also exacerbate ongoing environmental pressures in certain settlements, particularly in Alaskan indigenous communities, and is very likely to fundamentally rearrange U.S. ecosystems over the 21st century. Though some benefits may balance adverse effects on agriculture and forestry in the next few decades, the body of evidence points towards increasing risks of net adverse impacts on U.S. food production, agriculture and forest productivity as temperature continues to rise. These impacts are global and may exacerbate problems outside the U.S. that raise humanitarian, trade, and national security issues for the U.S.

5. New Scientific Assessments

In 2009, based on a large body of robust and compelling scientific evidence, the EPA Administrator issued the Endangerment Finding under CAA section 202(a)(1).[24] In the Endangerment Finding, the Administrator found that the current, elevated concentrations of GHGs in the atmosphere—already at levels unprecedented in human history—may reasonably be anticipated to endanger public health and welfare of current and future generations in the U.S. The D.C. Circuit later upheld the Endangerment Finding from all challenges. *Coalition for Responsible Regulation* v. *EPA*, 684 F. 3d 102, 116–26 (D.C. Cir. 2012).

Since the administrative record concerning the Endangerment Finding closed following the EPA's 2010 Reconsideration Denial, the climate has continued to change, with new records being set for a number of climate indicators such as global average surface temperatures, Arctic sea ice retreat, CO_2 concentrations, and sea level rise. Additionally, a number of major scientific assessments have been released that improve understanding of the climate system and strengthen the case that GHGs endanger public health and welfare both for current and future generations. These assessments, from the Intergovernmental Panel on Climate Change (IPCC), the U.S. Global Change Research Program (USGCRP), and the National Research Council (NRC), include: IPCC's 2012 Special Report on Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation (SREX) and the 2013–2014 Fifth Assessment Report (AR5), the USGCRP's 2014 National Climate Assessment, Climate Change Impacts in the United States (NCA3), and the NRC's 2010 Ocean Acidification: A National Strategy to Meet the Challenges of a Changing

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[20] IPCC, 2013: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[21] As previously noted, this rulemaking uses the AR4 100-year GWP value for methane (25), rather than AR5, for CO_2 equivalency calculations to be consistent with and comparable to key Agency emission quantification programs such as the Inventory of Greenhouse Gas Emissions and Sinks (GHG Inventory), and the GHGRP.

[22] IPCC, 2013: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[23] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," 74 FR 66496 (Dec. 15, 2009) ("Endangerment Finding").

[24] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," 74 FR 66496 (Dec. 15, 2009) ("Endangerment Finding").

Ocean (Ocean Acidification), 2011 Report on Climate Stabilization Targets: Emissions, Concentrations, and Impacts over Decades to Millennia (Climate Stabilization Targets), 2011 National Security Implications for U.S. Naval Forces (National Security Implications), 2011 Understanding Earth's Deep Past: Lessons for Our Climate Future (Understanding Earth's Deep Past), 2012 Sea Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future, 2012 Climate and Social Stress: Implications for Security Analysis (Climate and Social Stress), and 2013 Abrupt Impacts of Climate Change (Abrupt Impacts) assessments.

The conclusions of the recent scientific assessments confirm and strengthen the science that supported the 2009 Endangerment Finding. The NCA3 indicates that climate change "threatens human health and well-being in many ways, including impacts from increased extreme weather events, wildfire, decreased air quality, threats to mental health, and illnesses transmitted by food, water, and disease-carriers such as mosquitoes and ticks." [25] Most recently, the USGCRP released a new assessment, "The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment" (also known as the USGCRP Climate and Health Assessment). This assessment finds that "climate change impacts endanger our health" and that in the United States we have "observed climate-related increases in our exposure to elevated temperatures; more frequent, severe, or longer lasting extreme events; diseases transmitted through food, water, or disease vectors such as ticks and mosquitoes; and stresses to mental health and well-being." The assessment determines that "[e]very American is vulnerable to the health impacts associated with climate change." Climate warming will also likely "make it harder for any given regulatory approach to reduce ground-level ozone pollution", and, unless offset by reductions of ozone precursors, it is likely that "climate-driven increases in ozone will cause premature deaths, hospital visits, lost school days, and acute respiratory symptoms." [26]

Assessments state that certain populations are particularly vulnerable to climate change. The USGCRP Climate and Health Assessment assesses several disproportionately vulnerable populations, including those with low income, some communities of color, immigrant groups, indigenous peoples, pregnant women, vulnerable occupational groups, persons with disabilities, and persons with preexisting or chronic medical conditions. The Climate and Health Assessment also concludes that children's unique physiology and developing bodies contribute to making them particularly vulnerable to climate change. Children also have unique behaviors and exposure pathways that could increase their exposure to environmental stressors, like contaminants in dust or extreme heat events. Impacts from climate change on children are likely from heat waves, air pollution, infectious and waterborne illnesses, disruptions in food safety and security, and mental health effects resulting from extreme weather events. For example, climate change can disrupt food safety and security by significantly reducing food quality, availability and access. Children are more susceptible to this disruption because nutrition is important during critical windows of development and growth. Older people are at much higher risk of mortality during extreme heat events and pre-existing health conditions also make older adults susceptible to cardiac and respiratory impacts of air pollution and to more severe consequences from infectious and waterborne diseases. Limited mobility among older adults can also increase health risks associated with extreme weather and floods.

The new assessments also confirm and strengthen the science that supported the 2009 Endangerment Finding. The NRC assessment Understanding Earth's Deep Past stated that "[b]y the end of this century, without a reduction in emissions, atmospheric CO2 is projected to increase to levels that Earth has not experienced for more than 30 million years." In fact, that assessment stated that "the magnitude and rate of the present GHG increase place the climate system in what could be one of the most severe increases in radiative forcing of the global climate system in Earth history." [27] Because of these unprecedented changes in atmospheric concentrations, several assessments state that we may be approaching critical, poorly understood thresholds. The NRC Abrupt Impacts report analyzed the potential for abrupt climate change in the physical climate system and abrupt impacts of ongoing changes that, when thresholds are crossed, could cause abrupt impacts for society and ecosystems. The report considered destabilization of the West Antarctic Ice Sheet (which could cause 3–4 m of potential sea level rise) as an abrupt climate impact with unknown but probably low probability of occurring this century. The report categorized a decrease in ocean oxygen content (with attendant threats to aerobic marine life); increase in intensity, frequency, and duration of heat waves; and increase in frequency and intensity of extreme precipitation events (droughts, floods, hurricanes, and major storms) as climate impacts with moderate risk of an abrupt change within this century. The NRC Abrupt Impacts report also analyzed the threat of rapid state changes in ecosystems and species extinctions as examples of an irreversible impact that is expected to be exacerbated by climate change. Species at most risk include those whose migration potential is limited, whether because they live on mountaintops or fragmented habitats with barriers to movement, or because climatic conditions are changing more rapidly than the species can move or adapt. While some of these abrupt impacts may be of low or moderate probability in this century, the probability for a significant change in many of these processes after 2100 was judged to be higher, with severe impacts likely should the abrupt change occur. Future temperature changes will be influenced by what emissions path the world follows. In its high emission scenario, the IPCC AR5 projects that global temperatures by the end of the century will likely be 2.6 °C to 4.8 °C (4.7 to 8.6 °F) warmer than today. There is very high confidence that temperatures on land and in the Arctic will warm even faster than the global average. However, according to the NCA3, significant reductions in emissions would lead to noticeably less future warming beyond mid-century, and therefore less impact to public health and welfare. According to the NCA3, regions closer to the poles are projected to receive more precipitation, while the dry subtropics expand (colloquially, this has been summarized as wet areas getting wet and dry regions getting drier), while "[t]he widespread trend of increasing heavy downpours is expected to continue, with precipitation becoming less frequent but more intense." Meanwhile, the NRC Climate Stabilization Targets assessment found that the area burned by wildfire in parts of western North America is expected to grow by 2 to 4 times for 1 °C (1.8 °F) of warming. The NCA also found that

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[25] USGCRP, Third National Climate Assessment, p. 221.

[26] See also Kleeman, M.J., S.-H. Chen, and R.A. Harley. 2010. Climate change impact on air quality in California: Report to the California Air Resources Board. *http://www.arb.ca.gov/research/apr/past/04-349.pdf.*

[27] National Research Council, Understanding Earth's Deep Past, p. 138.

"[e]xtrapolation of the present observed trend suggests an essentially ice-free Arctic in summer before mid-century." Retreating snow and ice, and emissions of carbon dioxide and methane released from thawing permafrost, are very likely to amplify future warming.

Since the 2009 Endangerment Finding, the IPCC AR5, the USGCRP NCA3, and three of the new NRC assessments provide estimates of projected global average sea level rise. These estimates, while not always directly comparable as they assume different emissions scenarios and baselines, are at least 40 percent larger than, and in some cases more than twice as large as, the projected rise estimated in the IPCC AR4 assessment, which was referred to in the 2009 Endangerment Finding. The NRC Sea Level Rise assessment projects a global average sea level rise of 0.5 to 1.4 meters by 2100. The NRC National Security Implications assessment suggests that "the Department of the Navy should expect roughly 0.4 to 2 meters global average sea-level rise by 2100." The NRC Climate Stabilization Targets assessment states that a global average temperature increase of 3 °C will lead to a global average sea level rise of 0.5 to 1 meter by 2100. These NRC and IPCC assessments continue to recognize and characterize the uncertainty inherent in accounting for melting ice sheets in sea level rise projections.

In addition to future impacts, the NCA3 emphasizes that climate change driven by human emissions of GHGs is already happening now and it is happening in the U.S. According to the IPCC AR5 and the NCA3, there are a number of climate-related changes that have been observed recently, and these changes are projected to accelerate in the future:

- The planet warmed about 0.85 °C (1.5 °F) from 1880 to 2012. It is extremely likely (>95 percent probability) that human influence was the dominant cause of the observed warming since the mid-20th century, and likely (>66 percent probability) that human influence has more than doubled the probability of occurrence of heat waves in some locations. In the Northern Hemisphere, the last 30 years were likely the warmest 30 year period of the last 1400 years.
- Global sea levels rose 0.19 m (7.5 inches) from 1901 to 2010. Contributing to this rise was the warming of the oceans and melting of land ice. It is likely that 275 gigatons per year of ice melted from land glaciers (not including ice sheets) since 1993, and that the rate of loss of ice from the Greenland and Antarctic ice sheets increased substantially in recent years, to 215 gigatons per year and 147 gigatons per year respectively since 2002. For context, 360 gigatons of ice melt is sufficient to cause global sea levels to rise 1 mm.
- Annual mean Arctic sea ice has been declining at 3.5 to 4.1 percent per decade, and Northern Hemisphere snow cover extent has decreased at about 1.6 percent per decade for March and 11.7 percent per decade for June.
- Permafrost temperatures have increased in most regions since the 1980s, by up to 3 °C (5.4 °F) in parts of Northern Alaska.
- Winter storm frequency and intensity have both increased in the Northern Hemisphere. The NCA3 states that the increases in the severity or frequency of some types of extreme weather and climate events in recent decades can affect energy production and delivery, causing supply disruptions, and compromise other essential infrastructure such as water and transportation systems.

In addition to the changes documented in the assessment literature, there have been other climate milestones of note. According to the National Oceanic and Atmospheric Administration (NOAA), methane concentrations in 2014 were about 1,823 parts per billion, 150 percent higher than concentrations were in 1750. After a few years of nearly stable concentrations from 1999 to 2006, methane concentrations have resumed increasing at about 5 parts per billion per year.[28] Concentrations today are likely higher than they have been for at least the past 800,000 years.[29] Arctic sea ice has continued to decline, with September of 2012 marking the record low in terms of Arctic sea ice extent, 40 percent below the 1979–2000 median. Sea level has continued to rise at a rate of 3.2 mm per year (1.3 inches/decade) since satellite observations started in 1993, more than twice the average rate of rise in the 20th century prior to 1993.[30] And 2015 was the warmest year globally in the modern global surface temperature record, going back to 1880, breaking the record previously held by 2014; this now means that the last 15 years have been 15 of the 16 warmest years on record.[31]

These assessments and observed changes raise concerns that reducing emissions of GHGs across the globe is necessary in order to avoid the worst impacts of climate change, and underscore the urgency of reducing emissions now. In 2011 the NRC Committee on America's Climate Choices listed a number of reasons "why it is imprudent to delay actions that at least begin the process of substantially reducing emissions." [32] For example, they stated:

- The faster emissions are reduced, the lower the risks posed by climate change. Delays in reducing emissions could commit the planet to a wide range of adverse impacts, especially if the sensitivity of the climate to GHGs is on the higher end of the estimated range.
- Waiting for unacceptable impacts to occur before taking action is imprudent because the effects of GHG emissions do not fully manifest themselves for decades and, once manifested, many of these changes will persist for hundreds or even thousands of years.
- In the committee's judgment, the risks associated with maintaining business as usual are a much greater concern than the risks associated with engaging in strong response efforts.

Overview of Climate Change Impacts in the United States

The NCA3 assessed the climate impacts in eight regions of the U.S., noting that changes in physical climate parameters such as temperatures, precipitation, and sea ice retreat were already having impacts on forests, water supplies, ecosystems, flooding, heat waves, and air quality. The U.S. average temperatures have similarly increased by 1.3 to 1.9 degrees F since 1895, with most of that increase occurring since 1970, and the most recent decade was the U.S.'s hottest as well as the world's hottest. Moreover, the NCA3 found that future warming is projected to be much larger than recent observed variations in temperature, with 2 to 4 degrees F warming expected in most areas of the U.S. over the next few decades, and up to 10 degrees F possible by the end of the century assuming continued increases in emissions. Extreme heat events will continue to become more common, and extreme cold less common. Additionally, precipitation is considered likely to increase in the northern states, decrease in the southern states, and with the heaviest precipitation events projected to increase everywhere.

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[28] Ed Dlugokencky, NOAA/ESRL (*www.esrl.noaa.gov/gmd/ccgg/trends_ch4/*).

[29] U.S. Environmental Protection Agency. 2014. Climate change indicators in the United States, 2014. Third edition. EPA 430–R–14–004. *www.epa.gov/climatechange/indicators.*

[30] Blunden, J., and D. S. Arndt, Eds., 2015: State of the Climate in 2014. Bull. Amer. Meteor. Soc., 96 (7), S1–S267.

[31] *http://www.ncdc.noaa.gov/sotc/global/201513.*

[32] NRC, 2011: America's Climate Choices, The National Academies Press, p. 2.

In the Northeast, temperatures increased almost 2 °F from 1895 to 2011, precipitation increased by about 5 inches (10 percent), and sea level rise of about a foot has led to an increase in coastal flooding. In the future, if emissions continue to increase, the Northeast is projected to experience 4.5 to 10 °F of warming by the 2080s. This is expected to lead to more heat waves, coastal and river flooding, and intense precipitation events. Sea levels in the Northeast are expected to increase faster than the global average because of subsidence, and models suggest changing ocean currents may further increase the rate of sea level rise.

In the Southeast, average annual temperature during the last century cycled between warm and cool periods. A warm peak occurred during the 1930s and 1940s followed by a cool period and temperatures then increased again from 1970 to the present by an average of 2 °F. Louisiana has already lost 1,880 square miles of land in the last 80 years due to sea level rise and other contributing factors. The Southeast is exceptionally vulnerable to sea level rise, extreme heat events, hurricanes, and decreased water availability. Major risks of further warming include significant increases in the number of hot days (95 °F or above) and decreases in freezing events, as well as exacerbated ground level ozone in urban areas. Projections suggest that there may be fewer hurricanes in the Atlantic in the future, but they will be more intense, with more Category 4 and 5 storms. The NCA identified New Orleans, Miami, Tampa, Charleston, and Virginia Beach as cities at particular risk of flooding.

In the Northwest, temperatures increased by about 1.3 °F between 1895 and 2011. Snowpack in the Northwest is an important freshwater source for the region. More precipitation falling as rain instead of snow has reduced the snowpack, and warmer springs have corresponded to earlier snowpack melting and reduced stream flows during summer months. Drier conditions have increased the extent of wildfires in the region. Average annual temperatures are projected to increase by 3.3 °F to 9.7 °F by the end of the century (depending on future global GHG emissions), with the greatest warming is expected during the summer. Continued increases in global GHG emissions are projected to result in up to a 30 percent decrease in summer precipitation. Warmer waters are expected to increase disease and mortality in important fish species, including Chinook and sockeye salmon.

In Alaska, temperatures have changed faster than anywhere else in the U.S. Annual temperatures increased by about 3 °F in the past 60 years. Warming in the winter has been even greater, rising by an average of 6 °F. Glaciers in Alaska are melting at some of the fastest rates on Earth. Permafrost soils are also warming and beginning to thaw. Drier conditions had already contributed to more large wildfires in the 10 years prior to the NCA3 than in any previous decade since the 1940s, when recordkeeping began, and subsequent years have seen even more wildfires. By the end of this century, continued increases in GHG emissions are expected to increase temperatures by 10 to 12 °F in the northernmost parts of Alaska, by 8 to 10 °F in the interior, and by 6 to 8 °F across the rest of the state. These increases will exacerbate ongoing arctic sea ice loss, glacial melt, permafrost thaw and increased wildfire, and threaten humans, ecosystems, and infrastructure.

In the Southwest, temperatures are now about 2 °F higher than the past century, and are already the warmest that region has experienced in at least 600 years. The NCA notes that there is evidence that climate-change induced warming on top of recent drought has influenced tree mortality, wildfire frequency and area, and forest insect outbreaks. At the time of publication of the NCA, even before the last 2 years of extreme drought in California, tree ring data was already indicating that the region might be experiencing its driest period in 800 years. The Southwest is projected to warm an additional 5.5 to 9.5 °F over the next century if emissions continue to increase. Winter snowpack in the Southwest is projected to decline (consistent with recent record lows), reducing the reliability of surface water supplies for cities, agriculture, cooling for power plants, and ecosystems. Sea level rise along the California coast is projected to worsen coastal erosion, increase flooding risk for coastal highways, bridges, and low-lying airports, and pose a threat to groundwater supplies in coastal cities. Also, "[t]he combination of a longer frost-free season, less frequent cold air outbreaks, and more frequent heat waves accelerates crop ripening and maturity, reduces yields of corn, tree fruit, and wine grapes, stresses livestock, and increases agricultural water consumption." Increased drought, higher temperatures, and bark beetle outbreaks are likely to contribute to continued increases in wildfires.

The rate of warming in the Midwest has markedly accelerated over the past few decades. Temperatures rose by more than 1.5 °F from 1900 to 2010, but between 1980 and 2010 the rate of warming was three times faster than from 1900 through 2010. Precipitation generally increased over the last century, with much of the increase driven by intensification of the heaviest rainfalls. Several types of extreme weather events in the Midwest (*e.g.*, heat waves and flooding) have already increased in frequency and/or intensity due to climate change. In the future, if emissions continue increasing, the Midwest is expected to experience 5.6 to 8.5 °F of warming by the 2080s, leading to more heat waves. Specific vulnerabilities highlighted by the NCA include long-term decreases in agricultural productivity, changes in the composition of the region's forests, increased public health threats from heat waves and degraded air and water quality, negative impacts on transportation and other infrastructure associated with extreme rainfall events and flooding, and risks to the Great Lakes including shifts in invasive species, increases in harmful algal blooms, and declining beach health.

High temperatures (more than 100 °F in the Southern Plains and more than 95 °F in the Northern Plains) are projected to occur much more frequently by mid-century. Increases in extreme heat will increase heat stress for residents, energy demand for air conditioning, and water losses. In Hawaii, other Pacific islands, and the Caribbean, rising air and ocean temperatures, shifting rainfall patterns, changing frequencies and intensities of storms and drought, decreasing base flow in streams, rising sea levels, and changing ocean chemistry will affect ecosystems on land and in the oceans, as well as local communities, livelihoods, and cultures. Low islands are particularly at risk.

In Hawaii and the Pacific islands, "[w]armer oceans are leading to increased coral bleaching events and disease outbreaks in coral reefs, as well as changed distribution patterns of tuna fisheries. Ocean acidification will reduce coral growth and health. Warming and acidification, combined with existing stresses, will strongly affect coral reef fish communities." For Hawaii and the Pacific islands, future sea surface temperatures are projected to increase 2.3 °F by 2055 and 4.7 °F by 2090 under a scenario that assumes continued increases in emissions.

Methane Specific Impacts. Methane is also a precursor to ground-level ozone, which can cause a number of harmful effects on health and the environment. Additionally, ozone is a short-lived climate forcer that contributes to global warming. In remote areas, methane is an important precursor to tropospheric ozone formation.[33] Almost half of the global annual mean ozone increase since preindustrial times is believed to be due to anthropogenic methane.[34] Projections of future emissions also indicate that methane is likely to be a key contributor to ozone concentrations in the future.[35] Unlike nitrogen oxide (NO_X) and VOC, which affect ozone concentrations regionally and at hourly time scales, methane emissions affect ozone concentrations globally and on decadal time scales given methane's relatively long atmospheric lifetime compared to these other ozone precursors.[36] Reducing methane emissions, therefore, may contribute to efforts to reduce global background ozone concentrations that contribute to the incidence of ozone-related health effects.[37] [38] [39] These benefits are global and occur in both urban and rural areas.

C. What is the EPA's authority for reviewing the Emission Guidelines?

The EPA is not statutorily obligated to conduct a review of the Emission Guidelines, but has the discretionary authority to do so when circumstances indicate that it is appropriate. The EPA has determined that it is appropriate to conduct a review of and finalize certain changes to the Emission Guidelines due to changes in the landfill industry and changes in operation of the landfills, including the size, trends in GCCS installations (such as the types of MSW landfills that have installed gas collection systems), and age of landfills since the Emission Guidelines were promulgated in 1996 and the opportunities for significant reductions in methane and other pollutants at reasonable cost. The EPA compiled new information on MSW landfills through data collection efforts for a statutorily mandated review of the NSPS, public comments received on the NSPS proposal, and public comments received on an ANPRM, as well as a proposed rulemaking for a review of the Emission Guidelines. This information allowed the EPA to conduct an assessment of current practices, emissions and potential for additional emission reductions.

D. What is the purpose and scope of this action?

The purpose of this action is to (1) Present the results of the EPA's review of the Emission Guidelines, (2) finalize revisions to the Emission Guidelines based on that review, and (3) resolve or provide clarification regarding several implementation issues that were addressed in prior proposed amendments published on May 23, 2002 (67 FR 36475) and September 8, 2006 (71 FR 53271) as they apply to existing sources. The final revisions appear in 40 CFR part 60, subpart Cf.[40] Although the EPA is not required to respond to comments received on the July 17, 2014, ANPRM (79 FR 41772) for the MSW landfills Emission Guidelines or comments it received on the concurrent proposal for revised NSPS for new MSW landfills in this document, the EPA is summarizing several comments it received to provide a framework and support the rationale for the final revisions to the Emission Guidelines.

E. How would the changes in applicability affect sources currently subject to subparts Cc and WWW?

Landfills currently subject to 40 CFR part 60, subparts Cc and WWW, are considered "existing" with the promulgation of this new subpart Cf and are ultimately affected by any changes to the Emission Guidelines resulting from this review. Each MSW landfill for which construction, modification, or reconstruction commenced on or before July 17, 2014, the date of proposal of the standard for new landfills under subpart XXX, is an existing source as of the effective date of this rule. Under CAA section 111, a source is either new, *i.e.*, construction, modification, or reconstruction commenced after a proposed NSPS is published in the **Federal Register** (CAA section 111(a)(1)) or existing, *i.e.*, any source other than a new source (CAA section 111(a)(6)). Because the revised Emission Guidelines apply to existing sources, any source that is not subject to subpart XXX will be subject to the revised Emission Guidelines. Any existing MSW landfill that modifies or reconstructs after July 17, 2014 would become a new source subject to the NSPS subpart XXX.

Consistent with the general approach evinced by CAA section 111, sources currently subject to subpart WWW would need to continue to comply with the requirements in that rule until they become subject to more stringent requirements in the revised Emission Guidelines as implemented through a revised state or federal plan. The current Emission Guidelines, subpart Cc, refer to subpart WWW for their substantive requirements. That is, the requirements regarding the installation and operation of a well-designed and well-operated GCCS and compliance with the specified emission limits are the same in both rules. Thus, because the EPA is finalizing its proposal to revise the Emission Guidelines to increase their stringency, a landfill currently subject to 40 CFR part 60, subpart WWW, would need to comply with the more stringent requirements in a revised state plan or federal plan implementing the revised Emission Guidelines (40 CFR part 60, subpart Cf). States with designated facilities must develop (or revise) and submit a state plan to the EPA within 9 months of promulgation of any revisions to the Emission Guidelines (40 CFR 60.23). Any revisions to an existing state plan and any newly adopted state plan must be established following the requirements of 40 CFR part 60, subpart B. To assist regulatory agencies in preparing state plans, the EPA developed the document "Municipal Solid Waste Landfills, Volume 2: Summary of Requirements for Section 111(d) State Plans for Implementing the Municipal Solid Waste Landfill Emission Guidelines." This volume describes the elements of a state plan and explains the state plan development and review process. The requirements include making the state plan publically available and providing the opportunity for public discussion. MSW Landfills, Volume 2 is available on the TTN Web site at *https://www3.epa.gov/ttn/atw/landfill/landflpg.html*. Note that MSW Landfills, Volume 2 was written for implementing the 1996 Emission Guidelines and contains a schedule corresponding to the 1996 Emission Guidelines. For these 2016 Emission Guidelines, state plans are due May 30, 2017.

Once the EPA receives a complete state plan or plan revision, and completes its review of that plan or plan revision, the EPA will propose the plan or plan revision for approval or disapproval. The EPA will approve or disapprove the plan or plan revision according to the schedule in 40 CFR part 60, subpart B. The EPA will publish notice of state plan approvals or disapprovals in the **Federal Register** and will include an explanation of its decision. The EPA also intends to revise the existing federal plan (40 CFR part 62, subpart GGG) to incorporate the changes and other requirements adopted in this final action revising the Emission Guidelines. The revised federal plan will apply in states that have either never submitted a state plan or not received approval of any necessary revised state plan until such time as an initial state plan or revised state plan is approved. Fifteen states and territories implement the original Emission Guidelines promulgated at subpart Cc under the Federal Plan (40 CFR part 62, subpart GGG) The revised federal plan would also apply in Indian country unless and until replaced by a tribal implementation plan (TIP).[41]

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[33] U.S. EPA. 2013. "Integrated Science Assessment for Ozone and Related Photochemical Oxidants (Final Report)." EPA–600–R–10–076F. National Center for Environmental Assessment—RTP Division. Available at *www.epa.gov/ncea/isa/*

[34] *Ibid.*

[35] *Ibid.*

[36] *Ibid.*

[37] West, J.J., Fiore, A.M. 2005. "Management of tropospheric ozone by reducing methane emissions." *Environ. Sci. Technol.* 39:4685–4691.

[38] Anenberg, S.C., et al. 2009. "Intercontinental impacts of ozone pollution on human mortality," *Environ. Sci. & Technol.* 43: 6482–6487.

[39] Sarofim, M.C., Waldhoff, S.T., Anenberg, S.C. 2015. "Valuing the Ozone-Related Health Benefits of Methane Emission Controls," *Environ. Resource Econ.* DOI 10.1007/s10640–015–9937–6.

[40] Rather than merely updating 40 CFR part 60, subpart Cc, the existing emissions guidelines, the EPA has determined that the most appropriate way to proceed is to establish a new subpart that includes both the verbatim restatement of certain provisions in the existing Emission Guidelines and revisions to, or the addition of, other provisions.

Because many of the landfills currently subject to 40 CFR part 60, subparts Cc and WWW, are closed, the EPA is finalizing provisions to minimize the burden on these closed landfills while continuing to protect air quality, as discussed in sections V.C and VI.C of this preamble.

IV. Summary of the Final Emission Guidelines

A. What are the control requirements?

1. Design Capacity and Emissions Thresholds

The revised Emission Guidelines retain the current design capacity thresholds of 2.5 million Mg and 2.5 million m^3, but reduce the NMOC emission threshold for the installation and removal of a GCCS from 50 Mg/yr to 34 Mg/yr for landfills that are not closed as of September 27, 2017. An MSW landfill that exceeds the design capacity thresholds must install and start up a GCCS within 30 months after reporting that LFG emissions reach or exceed a NMOC level of 34 Mg/yr NMOC. The owner or operator of a landfill may control the gas by routing it to a non-enclosed flare, an enclosed combustion device, or a treatment system that processes the collected gas for subsequent sale or beneficial use.

2. Tier 4

The current Emission Guidelines (40 CFR part 60, subpart Cc) provide that owners or operators determine whether the landfill has exceeded the NMOC emissions threshold using one of three available modeling procedures, known as Tiers 1, 2, and 3. The EPA is finalizing in subpart Cf an additional optional methodology based on site-specific surface methane emissions to determine when a landfill must install and operate a GCCS. This alternative emission threshold methodology, referred to as "Tier 4," is based on SEM and demonstrates that surface methane emissions are below a specific threshold. The Tier 4 SEM demonstration allows certain landfills that exceed modeled NMOC emission rates using Tier 1 or 2 to demonstrate that site-specific surface methane emissions are below a surface concentration threshold (a landfill need not model emissions under Tier 3 before using Tier 4). A landfill that can demonstrate that surface emissions are below 500 ppm for four consecutive quarters does not trigger the requirement to install a GCCS even if Tier 1, 2, or 3 calculations indicate that the 34 Mg/yr threshold has been exceeded. Owners or operators continue to keep detailed records of each quarterly monitoring demonstration and must submit a Tier 4 surface emissions report annually. If a landfill measures a surface emissions reading of greater than 500 ppm methane, the landfill must submit a GCCS design plan and install and operate a GCCS.

Tier 4 is based on the results of quarterly site-specific methane emissions monitoring of the perimeter of the landfill and entire surface of the landfill along a pattern that traverses the landfill at 30-meter (98-ft) intervals, in addition to monitoring areas where visual observations may indicate elevated concentrations of LFG, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. If the landfill opts to use Tier 4 for its emission threshold determination and there is any measured concentration of methane of 500 ppm or greater from the surface of the landfill, the owner or operator must install a GCCS, and the landfill cannot go back to using Tiers 1, 2, or 3 modeling to demonstrate that emissions are below the NMOC threshold.

Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr, but less than 50 Mg/yr using Tier 1 or Tier 2. If both Tier 1 and Tier 2 indicate NMOC emissions of 50 Mg/yr or greater, Tier 4 cannot be used. In addition, a wind barrier must be used for Tier 4 when the average wind speed exceeds 4 miles per hour (mph)(or 2 meters per second), or gusts are above 10 mph. Tier 4 measurements cannot be conducted if the average wind speed exceeds 25 mph. Wind speed must be measured with an on-site anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The average wind speed must be determined at 5-minute intervals. The gust must be determined at 3-second intervals. Further, when conducting Tier 4 monitoring, the sampling probe must be held no more than 5 centimeters above the landfill (*e.g.,* using a mechanical device such as a wheel on a pole). Tier 4 measurements cannot be conducted if the average wind speed exceeds 25 mph

In addition, landfills with a non-regulatory GCCS are allowed to operate the GCCS during the Tier 4 SEM demonstration, however, the GCCS must have operated at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration.

3. Subcategory of Closed Landfills

Because many landfills are closed and do not produce as much LFG, the EPA is finalizing the proposed subcategory for landfills that close on or before September 27, 2017. Landfills in this subcategory will continue to be subject to an NMOC emission threshold of 50 Mg/yr for determining when controls must be installed or can be removed, consistent with the NMOC thresholds in subparts Cc and WWW of 40 CFR part 60. These closed landfills would also be exempt from initial reporting requirements (*i.e.,* initial design capacity, initial NMOC emission rate, GCCS design plan, initial annual report, closure report, equipment removal report, and initial performance test report), provided that the landfill already met these requirements under subparts Cc or WWW of 40 CFR part 60.

4. Criteria for Removing GCCS

Landfill emissions increase as waste is added to a landfill, but decline over time; as waste decays, a landfill produces less and less methane and other pollutants. In the proposed Emission Guidelines (80 FR 52112), the EPA recognized that many open landfills subject to the Emission Guidelines contain inactive areas that have experienced declining LFG flows. Therefore, the EPA is finalizing criteria for determining when it is appropriate to cap, remove, or decommission a portion of the GCCS. The criteria for capping, removing, or decommissioning the GCCS are: (1) The landfill is closed, (2) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) the calculated NMOC emission rate at the landfill is less than 34 Mg/yr on three successive test dates. For landfills in the closed subcategory, the NMOC emission rate threshold for removing controls is 50 Mg/yr.

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[41] Indian tribes may, but are not required to, seek approval for treatment in a manner similar to a state for purposes of developing a tribal implementation plan implementing the Emission guidelines. If a tribe obtains such approval and submits a proposed TIP, the EPA will use the same criteria and follow the same procedure in approving that plan as it does with state plans. The federal plan will apply to all affected facilities located in Indian country unless and until EPA approves an applicable TIP.

5. Excluding Non-Productive Areas From Control

The EPA is finalizing a provision that allows the use of actual flow data when estimating NMOC emissions for the purposes of excluding low- or non-producing areas of the landfill from control. Owners or operators of landfills with physically separated, closed areas may either model NMOC emission rates, or may determine the flow rate of LFG using actual measurements, to determine NMOC emissions. Using actual flow measurements yields a more precise measurement of NMOC emissions for purposes of demonstrating the closed area represents less than 1 percent of the landfills total NMOC emissions. The Emission Guidelines historically allowed owners or operators to exclude from control areas that are non-productive. In this final action, the retained the 1 percent criteria level, rather than raising it, to prevent landfills from excluding areas from control unless emissions were very low. But, to help owners or operators demonstrate that a non-productive area may be excluded from control, the final rule allow the owner or operator to use site-specific flow measurements to determine NMOC emissions.

6. Landfill Gas Treatment

The EPA is finalizing two provisions related to LFG treatment. First, the EPA is clarifying that the use of treated LFG is not limited to use as a fuel for a stationary combustion device but also allows other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, and use as a raw material in a chemical manufacturing process. Second, the EPA is defining "treated landfill gas" as LFG processed in a treatment system meeting the requirements in 40 CFR part 60, subpart Cf, and defining "treatment system" as a system that filters, de-waters, and compresses LFG for sale or beneficial use. Owners or operators must develop a site-specific treatment system monitoring plan that includes monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for each intended end use of the treated LFG. They also must keep records that demonstrate that such parameters effectively monitor filtration, de-watering, and compression system performance necessary for each end use of the treated LFG. The treatment system monitoring plan must be submitted as part of the landfill's title V permit application. The permitting authority will review the permit application, including the treatment system monitoring plan, as part of the general permitting process. The treatment system monitoring parameters would be included in the permit as applicable requirements and thus become enforceable conditions (*i.e.*, the landfill monitors the treatment system monitoring parameters and maintains them in the specified range).

B. What are the monitoring, recordkeeping, and reporting requirements?

1. Wellhead Monitoring

The operational standard, corrective action, and corresponding recordkeeping and reporting remain for temperature and maintaining negative pressure at the wellhead. The EPA is removing the operational standards for nitrogen/oxygen levels at wellheads. Thus, the EPA is removing the corresponding requirement to take corrective action for exceedances of nitrogen/oxygen at wellheads. These adjustments to the wellhead monitoring parameters apply to all landfills. Although landfill owners or operators are not required to take corrective action based on exceedances of nitrogen/oxygen levels at wellheads, they are required to monitor nitrogen/oxygen levels at wellheads on a monthly basis to inform any necessary adjustments to the GCCS and must maintain records of all monthly readings. The landfill owner or operator must make these records available to the Administrator upon request.

2. Surface Monitoring

The EPA is finalizing the proposed requirement to monitor all surface penetrations. Landfills must conduct SEM at all cover penetrations and openings within the area of the landfill where waste has been placed and a GCCS is required to be in place and operating according to the operational standards in 40 CFR part 60, subpart Cf. Specifically, landfill owners or operators must conduct surface monitoring on a quarterly basis around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30 meter intervals, at all cover penetrations, and where visual observations may indicate the presence of elevated concentrations of LFG, such as distressed vegetation and cracks or seeps in the cover. Cover penetrations include wellheads, but do not include items such as survey stakes, fencing or litter fencing, flags, signs, trees, and utility poles.

3. Corrective Action

The owner or operator must measure the LFG temperature at the wellhead and gauge pressure in the gas collection header applied to each individual well on a monthly basis. If there is an exceedance (*i.e.*, LFG temperature of 55 degrees Celsius (131 degrees Fahrenheit) or positive pressure), the owner or operator must initiate corrective action within 5 days. If the temperature exceedance or positive pressure cannot be resolved within 15 days, then the owner or operator must determine the appropriate corrective action by conducting a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after the first measurement of the temperature exceedance or positive pressure. For corrective action that takes longer than 60 days to fully implement, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule for the corrective action that does not exceed 120 days. The owner or operator must also notify the Administrator of any corrective action exceeding 60 days within 75 days and also include a description of the root cause analysis, corrective action analysis and implementation schedule in the annual report. If corrective action is expected to take longer than 120 days after the initial exceedance, the owner or operator must submit the corrective action plan and corresponding implementation timeline to the Administrator for approval within 75 days of the first measurement of positive pressure. Owners or operators must keep records of corrective action analyses. Owners or operators must include corrective action records in the annual compliance report for corrective actions that take more than 60 days to implement.

4. Update and Approval of Design Plan

The EPA is reaffirming some requirements and revising others to address design plans. Design plans must continue to be prepared and approved by a professional engineer. The landfill owner or operator must then notify the Administrator that the plan is completed and provide a copy of the plan's signature page. The Administrator will now have 90 days to make a decision about whether the plan should be submitted for review. If the Administrator chooses to review, the approval process continues at outlined in this section. However, if the Administrator indicates that submission is not required or doesn't respond within 90 days, the landfill owner or operator can continue to implement the plan with the recognition that they are proceeding at their own risk. In the event that the design plan is required to be modified to obtain approval, the owner/operator must take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action.

The EPA is also finalizing two criteria for when an affected source must update its design plan and submit it to the Administrator for approval. A revised design plan must be submitted on the following timeline: (1) Within 90 days of expanding operations to an area not covered by the previously approved design plan; and (2) prior to installing or expanding the gas collection system in a manner other than the one described in the previous design plan. The final rule continues to require landfill owners or operators to prepare both an initial and revised design plan.

5. Electronic Reporting

The EPA is requiring owners or operators of existing MSW Landfills to submit electronic copies of certain required performance test reports, NMOC emission rate reports, annual reports, Tier 4 emission rate reports, and wet landfilling practices through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). Owners or operators are allowed to maintain electronic copies of the records in lieu of hardcopies to satisfy federal recordkeeping requirements.

The requirement to submit performance test data electronically to the EPA applies only to those performance tests conducted using test methods that are supported by the Electronic Reporting Tool (ERT). A listing of the pollutants and test methods supported by the ERT is available at: *www3.epa.gov/ttn/chief/ert/ert_info.html.* When the EPA adds new methods to the ERT, a notice will be sent out through the Clearinghouse for Inventories and Emissions Factors (CHIEF) Listserv (*www.epa.gov/air-emissions-inventories/emissions-inventory-listservs*) and a notice of availability will be added to the ERT Web site. You are encouraged to check the ERT Web site regularly for up-to-date information on methods supported by the ERT.

The EPA believes that the electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability, will further assist in the protection of public health and the environment and will ultimately result in less burden on the regulated community. Electronic reporting can also eliminate paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors and providing data quickly and accurately to the affected facilities, air agencies, the EPA and the public.

The EPA Web site that stores the submitted electronic data, WebFIRE, will be easily accessible to everyone and will provide a user-friendly interface that any stakeholder could access. By making the records, data, and reports addressed in this rulemaking readily available, the EPA, the regulated community, and the public will benefit when the EPA conducts its CAA-required reviews. As a result of having reports readily accessible, our ability to carry out comprehensive reviews will be increased and achieved within a shorter period of time.

We anticipate fewer or less substantial information collection requests (ICRs) in conjunction with prospective CAA-required reviews may be needed. Under an electronic reporting system, the EPA would have air emissions and performance test data in hand; we would not have to collect these data from the regulated industry. The data would provide useful information on actual emissions, types of controls in place, locations of facilities, and other data that the EPA uses in conducting required reviews or future assessments. We expect this to result in a decrease in time spent by industry to respond to data collection requests. We also expect the ICRs to contain less extensive stack testing provisions, as we will already have stack test data electronically. Reduced testing requirements would be a cost savings to industry. The EPA should also be able to conduct these required reviews more quickly. While the regulated community may benefit from a reduced burden of ICRs, the general public benefits from the agency's ability to provide these required reviews more quickly, resulting in increased public health and environmental protection.

Air agencies could benefit from more streamlined and automated review of the electronically submitted data. Having reports and associated data in electronic format will facilitate review through the use of software "search" options, as well as the downloading and analyzing of data in spreadsheet format. The ability to access and review air emission report information electronically will assist air agencies to more quickly and accurately determine compliance with the applicable regulations, potentially allowing a faster response to violations which could minimize harmful air emissions. This benefits both air agencies and the general public.

For a more thorough discussion of electronic reporting required by this rule, see the discussion in the proposed NSPS (79 FR 41818) and the 2015 proposed Emission Guidelines (80 FR 52127). In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, air agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories and air quality regulations and enhancing the public's access to this important information.

6. Landfills Recirculating Leachate or Adding Other Liquids

In the ANPRM and proposed Emission Guidelines, the EPA solicited input on whether additional action should be taken to address emissions from wet landfills. As discussed in section VI.A.3 of this preamble, there were a wide variety of perspectives provided in the public comments, and while many commenters supported separate thresholds for wet landfills, the EPA did not receive sufficient data to support a separate subcategory for landfills adding leachate or other liquids. In addition, the EPA has several other pending regulatory actions that could affect wet landfills. Accordingly, the EPA believes it is appropriate to further assess emissions from wet landfills prior to taking additional action. Therefore, the EPA is finalizing electronic reporting of additional data elements, as discussed in Section V.A.3 of this preamble, to inform potential action on wet landfills in the future.

C. Startup, Shutdown, and Malfunction Provisions

The standards in 40 CFR part 60, subpart Cf, apply at all times, including periods of startup or shutdown, and periods of malfunction. The EPA is reaffirming the work practice standard applicable during SSM events wherein the landfill owner or operator is required to shut down the gas mover system and close all valves in the collection and control system potentially contributing to the venting of the gas to the atmosphere within 1 hour of the collection or control system not operating. The landfill owner or operator must also keep records and submit reports of all periods when the collection and control device is not operating.

V. Summary of Significant Changes Since Proposal

A. Changes to Monitoring, Recordkeeping, and Reporting

1. Wellhead Monitoring

Although the EPA is finalizing the proposed removal of wellhead operational standards for nitrogen/oxygen, the EPA has decided to retain the operational standards for temperature. The temperature standards were considered to be an essential indicator for fires, as discussed in Section VI.A.1 of this preamble.

2. Corrective Action

We are revising the procedural requirements for correcting positive pressure and temperature by allowing owners or operators 60 days to correct exceedances. If the owner or operator cannot achieve negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) by 60 days after the initial exceedance, owners or operators must conduct a root cause analysis to identify the most appropriate corrective action, which can include, but is not limited to, expanding the GCCS. For corrective action that takes longer than 60 days, owners or operators must develop an implementation schedule to complete the corrective action as soon as practicable, but no more than 120 days following the initial positive pressure or temperature reading. Additionally, owners or operators must keep records of the corrective action analysis. Owners or operators must submit the corrective action and corresponding implementation timeline to the Administrator for approval when implementation of the corrective action is expected to take longer than 120 days after the initial exceedance.

This change provides flexibility to owners or operators in determining the appropriate remedy, as well as the timeline for implementing the remedy.

3. Landfills Recirculating Leachate or Adding Other Liquids

The EPA is adding additional electronic reporting requirements for wet areas of landfills. The additional reporting applies to areas of the landfill that have recirculated leachate within the last 10 years and to areas where other liquids were added within the last 10 years.

The EPA is requiring these landfills to annually report quantities of liquids added and/or leachate recirculated. The first report will contain historical quantities, where those data are available in on-site records. The EPA is also requiring the landfill to report the surface area over which the liquids are added or the leachate is recirculated during each reporting year. The EPA is also requiring the landfill to report the total waste disposed in the area with recirculated leachate or added liquids as well as the annual waste acceptance rates in those same areas. As discussed in Section VI.A.3 of this preamble, this additional electronic reporting for wet landfills will inform potential future action on wet landfills.

4. Portable Gas Analyzers

We are allowing the use of portable gas composition analyzers in conjunction with Method 3A to monitor the oxygen level at a wellhead. A portable analyzer may be used to monitor the oxygen level at a wellhead provided that it is calibrated and meets all QA/QC requirements according to Method 3A. ASTM D6522–11 may be used as an alternative to Method 3A for wellhead monitoring as long as all the quality assurance is conducted as required by ASTM D6522–11. To use ASTM D6552–11, the sample location must be prior to combustion.

This change allows owners or operators to employ devices that are commonly used in practice to measure wellhead parameters. This change also eliminates the need for the landfill owner or operator to request portable analyzers as an alternative, as well as the need for agency review or approval of such requests. In addition to providing reliable results when used properly, portable analyzers have a number of benefits, including common use, the ability to provide additional information on gas composition, and the ability to download data to a spreadsheet for easy access and analysis.

5. More Precise Location Data

The EPA is finalizing a requirement for landfills to report the latitude and longitude coordinates of each surface emissions exceedance (500 ppm methane or greater), as proposed, except the instrument accuracy must be at least 4 meters instead of 3 meters. This change will provide a more robust and long-term record of GCCS performance. Landfill owners or operators and regulators can use locational data to gain perspective on how the LFG collection system is functioning over time and owners or operators will be able to track trends in GCCS performance and cover practices to ensure a well operating system and minimize emissions.

B. Tier 4

The EPA is finalizing the use of Tier 4 SEM as an alternative way of determining when a landfill must install a GCCS; however, in the final rule, the final Tier 4 emissions threshold determination can be used only at landfills that have modeled NMOC emissions using Tier 1 or Tier 2 of greater than or equal to 34 Mg/yr but less than 50 Mg/yr because the landfills NESHAP (40 CFR part 63, subpart AAAA) requires landfills that have modeled NMOC emissions of 50 Mg/yr or greater to install and operate a GCCS irrespective of surface emissions. If both Tier 1 and Tier 2 indicate NMOC emissions of 50 Mg/yr or greater, Tier 4 cannot be used (a landfill need not model emissions under Tier 3 before using Tier 4). In order to verify that the landfill is eligible for Tier 4, the EPA is finalizing a provision to require landfill owners or operators that choose to use Tier 4 to continue to conduct Tier 1 and Tier 2 NMOC emission rate calculations and report results in the annual report.

The EPA is also limiting the use of Tier 4 at landfills with a GCCS installed. In order for a landfill with an operational GCCS to qualify for Tier 4, the GCCS must have operated for at least 75 percent of the 12 months prior to initiating Tier 4 testing. The EPA is finalizing reporting and recordkeeping requirements for the annual operating hours of destruction devices in order to verify that a landfill with a GCCS installed and opting for Tier 4 meets the GCCS criteria for having operated the system.

In addition, the EPA is finalizing specific requirements for the use of Tier 4 for emission threshold determinations related to wind speed. Since accurate measurements can be compromised in even moderately windy conditions, the EPA is requiring the owner or operator to use a wind barrier, similar to a funnel or other device, to minimize surface air turbulence when onsite wind speed exceeds the limits in the rule. Thus, when a wind barrier is used, the final rule allows the Tier 4 surface emissions demonstration to proceed when the average on-site wind speed exceeds 4 mph, or gusts exceed 10 mph. Tier 4 measurements cannot be conducted if the average wind speed exceeds 25 mph. Although we are aware of the use of wind barriers in the field, the EPA intends to provide additional guidance on their use. In addition, the owner or operator must take digital photographs of the instrument setup, including the wind barrier. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration. The owner or operator must maintain those photographs per the recordkeeping requirements. Wind speed must be measured with an on-site anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The average wind speed must be determined at 5-minute intervals. The gust must be determined at 3-second intervals. Further, when taking surface measurements, the sampling probe must be held no more than 5 centimeters above the landfill surface (*e.g.,* using a mechanical device such as a wheel on a pole).

The EPA is also finalizing reporting and recordkeeping requirements to ensure that a GCCS is installed in a timely manner and to improve the transparency of SEM testing. To ensure that a GCCS is installed in a timely manner, the EPA is requiring a GCCS to be installed and operated within 30 months of the most recent NMOC emission rate report in which the calculated NMOC emission rate equals or exceeds 34 Mg/yr according to Tier 2, once there is any measured concentration of methane of 500 ppm or greater from the surface of the landfill. To improve the transparency of SEM testing, landfill owners or operators must notify the delegated authority 30 days prior to conducting Tier 4 tests and maintain records of all SEM monitoring data and calibrations. In addition, landfill owners or operators must take and store digital photographs of the instrument setup. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration.

C. Changes To Address Closed or Non-Productive Areas

1. Closed Landfill Subcategory

The closed landfill subcategory is expanded to include those landfills that close on or before September 27, 2017 which is 13 months after publication of the final Emission Guidelines. This change gives landfills that closed or are planning to close time to complete the steps to reach closure.

2. Criteria for Removing or Decommissioning GCCS

The GCCS can be capped or removed when a landfill owner or operator demonstrates that (1) the landfill is closed, (2) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) the calculated NMOC emission rate at the landfill is less than 34 Mg/yr on three consecutive test dates (50 Mg/yr for the closed landfill subcategory). The final rule does not contain a GCCS removal criterion based on SEM.

D. Startup, Shutdown, and Malfunction Provisions

In the 2015 Emission Guidelines proposal (80 FR 52103), the EPA clarified that standards apply at all times, including periods of SSM. The EPA also added requirements to estimate emissions during SSM events. Consistent with *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the EPA is clarifying that the standards in the Emission Guidelines, once implemented through an EPA-approved state plan or a promulgated federal plan, apply at all times. In recognition of the unique nature of landfill emissions, and consistent with the need for standards to apply at all times, including during periods of SSM, the EPA is reaffirming a work practice standard that applies during SSM events. During such events, owners or operators must shut down the gas mover system and close within 1 hour all valves in the collection and control system contributing to the potential venting of the gas to the atmosphere. The landfill owner or operator must also keep records and submit reports of all periods when the collection and control device is not operating.

E. Other Corrections and Clarifications

The use of EPA Method 25A and Method 18 (on a limited basis, *e.g.,* specific compounds like methane) are included in the final rule. Method 25A in conjunction with Method 18 (for methane) or Method 3C can be used to determine NMOC for the outlet concentrations less than 50 ppm NMOC as carbon.

VI. Rationale for Significant Changes Since Proposal

After considering public comments and further analyzing the available data, the EPA made several changes in this final rule relative to what we proposed. A complete list of public comments received on the proposed rule and the responses to them can be viewed in the document "Responses to Public Comments on EPA's Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills: Proposed Rules" (hereafter "Response to Comments document"), which is available in Docket EPA–HQ–OAR–2014–0451. This section of the preamble summarizes comments and presents responses to those comments for only those provisions that have changed since the 2015 proposed Emission Guidelines.

A. Changes to Monitoring, Recordkeeping, and Reporting

1. Wellhead Monitoring

In the 2014 proposed NSPS, the EPA requested comment on alternative wellhead monitoring requirements, including potential exclusion from the temperature and nitrogen/oxygen monitoring requirements, or a reduction in the frequency of this monitoring. For example, the EPA indicated that it could reduce the frequency of wellhead monitoring for these three parameters (temperature and nitrogen/oxygen) from monthly to a quarterly or semi-annual schedule. The EPA requested comments on whether the potential exclusion should apply to a subset of landfills or landfill areas based on beneficial use of LFG.

In the 2015 proposed Emission Guidelines, the EPA proposed to remove the operational standards (*i.e.,* the requirement to meet operating limits) for temperature and nitrogen/oxygen at the wellheads, thus removing the corresponding requirement to take corrective action for exceedances of these parameters. This approach was taken to eliminate the need for owners or operators to request higher operating values (HOVs) for these parameters, submit alternative timelines for corrective action, or expand the GCCS to address exceeding these wellhead standards. The EPA proposed to maintain the requirement to monitor nitrogen/oxygen and temperature on a monthly basis, but to remove the requirement to report exceedances from fluctuations or variations in these parameters in the annual reports. Instead of annual reporting, the EPA proposed that landfill owners or operators maintain the records of this monthly monitoring on site to inform any necessary adjustments to the GCCS and make these records available to the Administrator upon request. The EPA proposed to maintain the requirement to operate the GCCS at negative pressure and in a manner that collects the most LFG and minimizes losses of LFG through the surface of the landfill. The EPA also requested comments on whether it should add a requirement to monitor wellhead flow rate, or any other wellhead monitoring parameters, that would help to ensure a well-operated GCCS (80 FR 52138).

Comment: Several commenters want the EPA to maintain the wellhead operational standards, including states, industry consultants, and environmental organizations, with one environmental organization stating that these wellhead parameters are the only warning signal for potential fire hazards. One state stated that the removal of the operational standards could lead to some landfill owners or operators not operating the GCCS in an effective manner, thus creating a potential for increased LFG emissions through the landfill surface.

Many other commenters supported removing the nitrogen/oxygen and temperature operational standards, including industry, some states), and the Small Business Association. Several commenters indicated that a lack of response to or approval of HOV requests or alternative timelines for corrective action, despite appropriate justification, is a significant administrative barrier in the current Emission Guidelines. These commenters stated that a lack of response to or approval of HOVs results in owners or operators having to install new wells to correct for temperature or oxygen exceedances even though such expansion of the GCCS does not correct the exceedance and may be contrary to a well-operated GCCS. One commenter stated that removing the operational standards would alleviate one of the most significant barriers to installing interim gas collection measures and would alleviate the corresponding administrative burden of requesting HOVs. Other commenters stated that removing the operational standards would not only reduce administrative burden, but would also facilitate early installation of GCCS and the use of appropriate best management practices to maximize gas collection. Two commenters from state agencies agreed with removing the operational standards, and agreed with retaining monthly monitoring of temperature and nitrogen/oxygen and retaining the corresponding monitoring data.

Several commenters suggested that certain monitoring data should be reported on a semi-annual basis so that agencies can identify or prevent fires. For example, state agency commenters suggested that the EPA require semi-annual reporting of wellhead readings above 5 percent oxygen and 130 degrees Fahrenheit, which was supported by supplemental comments received from the industry and industry trade organizations. One commenter also suggested reporting of any subsurface fire. One regional agency wanted the results to be reported if temperature exceeds 150 °F and also suggested reporting any methane to carbon dioxide ratio less than 1.

Commenters that supported removal of the operational standards for temperature and nitrogen/oxygen also contended that the nitrogen/oxygen and temperature wellheads parameters are poor indicators of landfill fires or inhibited decomposition and that landfill owners or operators already have their own incentive to prevent landfill fires. Commenters added that expanding the LFG collection system by drilling new wells may introduce more air into the landfill, which can exacerbate a fire and actually increase oxygen content. Commenters (0451–0178, 0451–0167, 0215–0191, 0215–0121) that favored retaining the operational standards for temperature and nitrogen/oxygen contend that temperature and nitrogen/oxygen data are essential to inform regulators of the presence of the potential for a landfill fire.

Response: After carefully considering public comments and available data, the EPA is removing the operational standards (*i.e.,* the requirement to meet operating limits) for nitrogen/oxygen, but not temperature. Landfill owners or operators must continue to monitor nitrogen/oxygen on a monthly basis, however, to ensure that the GCCS is well maintained and operated, collects the most LFG, and minimizes losses of LFG through the surface of the landfill. Landfill owners or operators must maintain records of this monthly monitoring and make these records available to the Administrator upon request. The EPA is requiring monthly monitoring and recordkeeping for these wellhead monitoring parameters (*i.e.,* oxygen, nitrogen, temperature, and pressure), since these are key indicators that are already being monitored by landfill owner or operators to determine how well the landfill is being operated, including the capturing and destroying landfill gas, promoting efficient anaerobic decomposition and/or preventing landfill fires.

Because of concerns regarding fire hazards, the EPA is retaining the operational standard for temperature. Landfill owners or operators must electronically submit, as part of their annual report, all readings that show LFG temperatures greater than 55 degrees Celsius (131 degrees Fahrenheit), and document the root cause and corrective action taken to correct for this exceedance, as discussed in section VI.A.2 of this preamble. While several commenters supported removing the temperature parameter, other commenters were concerned with fire risks if the parameter was removed. In addition, given the EPA experience with consent decrees and other enforcement actions involving elevated temperature values, the EPA has decided to retain temperature as an operating standard in the final rule. This overall approach will reduce the number of requests for higher operating values and alternative timeliness for nitrogen/oxygen parameters. In addition, note that regulatory agencies can request data records of oxygen, nitrogen, or temperature monitoring, as measured on a monthly basis, at any time.

Landfills are subject to 40 CFR part 60, subpart A. These provisions require landfill owners or operators, to the extent practicable, to maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Due to the extreme environmental consequences of a subsurface landfill fire, these provisions obligate landfill owners or operators to take all practical steps necessary to avoid landfill fires. While this action removes requirements to meet operational standards for nitrogen/oxygen at wellheads and to make corrective actions, landfill owners or operators must continue all due diligence to ensure that the GCCS is not overdrawn, thereby creating a flammable subsurface environment.

Because the corrective action requirements for certain parameters have been retained, the EPA is reaffirming its provisions for HOVs. The HOV provisions were originally enacted to address variations in temperature between landfills and between wells. With a sufficient demonstration (*i.e.,* supporting data showing the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens), an HOV may be established for temperature, nitrogen, or oxygen at a particular well. The EPA encourages regulatory authorities review requests for HOVs in a timely manner and to make use of these mechanisms where appropriate.[42] States may also consider HOVs when developing state plans.

2. Corrective Action

In a 1998 **Federal Register** notice (63 FR 32748, June 16, 1998), the EPA amended the wellhead monitoring provisions of 40 CFR part 60, subpart WWW, to allow an alternative timeline for correcting wellhead exceedances to be submitted to the Administrator for approval. The rule change made the wellhead monitoring provisions consistent with the SEM provisions, which allow an alternative remedy and corresponding timeline for correcting an exceedance to be submitted to the Administrator for approval. The EPA noted in the 1998 preamble that any timeline extending more than 120 days must be approved by the regulating agency. Since 1998, questions have been raised about the timing of correcting wellhead exceedances and whether a landfill needs agency approval for corrective action timelines that exceed 15 calendar days but are less than the 120 days allowed for expanding the GCCS.

In the 2015 Emission Guidelines proposal, the EPA clarified its intent and outlined a corresponding timeline for correcting positive pressure at a wellhead. The EPA proposed that a landfill must submit an alternative corrective action timeline request to the Administrator for approval if the landfill cannot restore negative pressure within 15 calendar days of the initial failure to maintain negative pressure and the landfill is unable to (or does not plan to) expand the gas collection system within 120 days of the initial exceedance. The EPA explained in the preamble that it did not specify a schedule in the proposed rule language by when a landfill would need to submit alternative timeline requests because the EPA determined that investigating and determining the appropriate corrective action, as well as the schedule for implementing corrective action, would be site specific and depend on the reason for the exceedance (80 FR 52126). In addition, the EPA requested comment (80 FR 52126) on an alternative timeline that extends the requirement for notification from 15 days to as soon as practicable, but no later than 60 days from when an exceedance is identified. In the 2014 ANPRM, the EPA had requested comment on the same approach, as well as whether 60 days is the appropriate time to make necessary repairs.

Comment: The EPA received comments on the proposed changes, including the time allowed for corrective action and for submitting alternative timeline requests for approval by the Administrator. Regarding the timeframe for submitting a request, several state agencies recommended extending the 15-day timeline for a request to be submitted and indicated that 15 days is not sufficient time to evaluate the problem and plan for corrective action, which may often involve construction activities. There were varied opinions from the state agencies on what length of time beyond 15 days is appropriate. Two agencies supported an extension to as soon as practicable but no later than 60 days, other agencies specified that the request should be submitted within 30 days from the initial exceedance.

Industry representatives from private and publicly owned landfills as well as waste industry consultants opposed the requirement to submit a request for an alternative corrective action timeline within 15 days. The commenters were concerned that 15 days is not enough time to assess the appropriate solution across miles of interconnected piping. In addition, the commenters were concerned that a 15-day time period would increase the paperwork for both the landfill and the reviewing regulatory agency. One commenter indicated that while many repairs can be completed within 60 days, some repairs, especially in cold weather climates, may take longer. One industry commenter suggested that a timeframe of 90 days to complete any adjustments or repairs is appropriate. If the corrections could not be made within 90 days, the commenter stated that the landfill would be prepared to have the system expanded within 120 days.

Industry commenters raised the issue that the timeline for corrective action for surface exceedances in the current subpart WWW regulations, 40 CFR 60.755(c)(4)(v), allows 120 days to install a new well or other collection device or submit an alternative timeline for another corrective action. These commenters also indicated that the 1998 NSPS amendments modified the corrective action for wellhead parameter exceedances to be consistent with the timeframe allowed for correcting surface exceedances (63 FR 32748, June 16, 1998). The commenters also noted that the 1998 amendments recognized that installation of a new well may not always be the appropriate corrective action for remedying a wellhead exceedance.

Despite the 1998 rule amendments, several of these industry commenters note that interpretation and implementation of the 1998 amendments to 40 CFR 60.755(a)(3) have been inconsistent, with some agencies only requiring the landfill owner or operator to submit requests if the corrective action will take longer than 120 days. Other states have taken the position that any exceedances that cannot be resolved within 15 days must automatically result in a requirement to expand the GCCS. One commenter referenced determinations that required landfills to submit an alternative timeline request within 15 days. One commenter indicated that the original rule never anticipated notification and a request for an alternative compliance timeline within 15 days, while another commenter indicated that the state of Texas requires landfills to submit alternative timelines only if the corrective action requires more than 120 days to complete.

In consideration of the 1998 final rule notice, industry commenters recommended that EPA require landfill owners or operators to submit an alternative timeline request for approval as soon as practicable and only in circumstances in which a system expansion or alternative corrective action will require more than 120 days to complete. One of the commenters (Republic 0451–0176) suggested that this approach was consistent with the Petroleum Refineries NSPS (40 CFR part 60, subpart Ja). The commenter noted that while the Landfills NSPS requires special approval to avoid the default corrective action of expanding the GCCS, the Refineries NSPS requires a root cause analysis to identify the appropriate corrective action, without specifying a default approach. The Refineries NSPS requires a root cause analysis and a corrective action analysis for exceedances and requires the facility to implement the corrective action within 45 days. If the corrective action cannot be completed in 45 days, the refinery must document and record all corrective actions completed to date. For actions not fully completed by day 45, they must develop an implementation schedule, as soon as practicable, for beginning and completing all corrective action.

One commenter provided some ideas for landfills to demonstrate good faith effort to comply with the 120-day corrective action schedule. They suggested the rules clarify that the landfill owner or operator is required to submit a notification to the agency that identifies and describes the diagnosis performed, the results of the diagnosis, identifies the corrective measure or alternative remedy to be implemented and reason(s) why system expansion is not appropriate to correct the exceedance. Under such an approach, corrective measures other than expansion that take 0–60 days to complete from the initial exceedance would not require any notification or approval but they would be documented in the annual compliance report. For corrective actions other than expansion that take longer than 60 days but less than 120 days to complete, the landfill owner or operator would notify the regulatory agency by day 75 from the date of the initial exceedance. This would allow 45 days for the agency to review and comment, and such notification would not require agency approval so as not to delay the site from proceeding with and completing the corrective action, as long as the corrective actions are completed within the 120-day timeframe.

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[42] The EPA asserts the importance of case specific HOV requests and approvals. However, to address concerns from HOV request reviewers and those submitting requests, an example of regulatory guidance for HOV demonstrations can be found at *http://www.epa.ohio.gov/portals/34/document/guidance/gd_1002.pdf.*

Industry commenters indicated that the timeline for corrective action is affected by other regulations. Two of these commenters noted that any corrective action that involves disturbing the final landfill cover could delay diagnosing the problem. All of these commenters also noted that a 60-day timeframe is problematic for landfills affected by the Asbestos NESHAP (40 CFR part 61, subpart M), which requires a 45-day notification prior to disturbing areas that may have asbestos containing material.

Response: The EPA is retaining the corrective action requirements for temperature in addition to negative pressure. The EPA recognizes the importance of temperature as a critical indicator of landfill fires and its effect on methanogens. Further removal of the corrective action requirements for temperature could have the unintended consequence of improper operation of a GCCS which could lead to a subsurface fire. Due to the importance of this parameter, e-reporting requirements for excessive temperature have also been established to better assess landfill fires.[43]

After carefully considering the comments received and evaluating the available data, the EPA is finalizing corrective action requirements that generally give owners or operators 60 days to investigate and determine the appropriate corrective action and then implement that action. The EPA has retained the requirements for temperature and positive pressure, in that if positive pressure or temperature exceedances exist, action must be initiated to correct the exceedances within 5 calendar days. This requirement has been retained to ensure the landfill takes prompt action to ensure the GCCS remains well-operated. The EPA recognizes, however, that the appropriate corrective action, as well as a schedule to implement it, is site-specific and depends on the reason for the exceedance. Therefore, for corrective action that takes longer than 60 days after the initial exceedance to implement, the EPA is providing flexibility for the landfill to determine the appropriate course of action based on a root cause analysis. Specifically, if the owner or operator cannot achieve negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) at the GCCS wellhead within 15 days, then the owner or operator must conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after positive pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) was first measured. An implementation schedule is required for exceedances that will take longer than 60 days to correct. A root cause analysis is an assessment conducted through a process of investigation to determine the primary cause, and any other contributing cause(s), of positive pressure at a wellhead or temperature above 55 degrees Celsius (131 degrees Fahrenheit). The root cause analysis and documentation of the corrective action taken to restore negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) must be kept on site as a record, but they do not have to be submitted or approved.

If negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) cannot be achieved within 60 days, then the owner or operator must develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the positive pressure or temperature reading. The owner or operator must also notify the Administrator within 75 days. The implementation schedule, root cause analysis, and documentation of the corrective action taken to restore negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) must be submitted in the facility's next annual report, but these items do not have to be approved.

If the exceedance cannot be corrected (or is not expected to be corrected) within 120 days, then the owner or operator must submit the root cause analysis, plan for corrective action to restore negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit), and the corresponding implementation timeline to the Administrator. The Administrator must approve the plan for corrective action and the corresponding timeline. The owner or operator must submit the proposed corrective action and timeline to the Administrator for approval as soon as practicable but no later than 75 days after the initial exceedance. Requiring approval by the Administrator for corrective action timelines that extend beyond 120 days is consistent with the corrective action timeline for surface emissions in 40 CFR 60.36f(c)(4)(v). This approach also prevents the landfill owner or operator from delaying submittals for corrective action requests until day 120. Once the negative pressure has been restored, the facility must document the corrective actions taken in the facility's next annual report.

For corrective action required to address positive pressure or temperature, the owner or operator must keep a record of the root cause analysis conducted, including a description of the recommended corrective action(s); the date for corrective action(s) already completed following the positive pressure reading and; and for action(s) not already completed within 60 days of the initial positive pressure reading, a schedule for implementation, including proposed commencement and completion dates. For corrective actions taking longer than 60 days to correct the exceedance, the owner or operator would also include in the annual report the root cause analysis, recommended corrective action(s), date corrective actions were completed, and schedule for implementing corrective actions. The owner or operator must also notify the Administrator within 75 days. For corrective actions taking longer than 120 days to correct the exceedance, the owner or operator would include, in a separate notification submitted to the Administrator for approval as soon as practicable, but no later than 75 days after the initial positive pressure or elevated temperature reading, the root cause analysis, recommended corrective action(s), date corrective actions taken to date were completed, and proposed schedule for implementing corrective actions.

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[43] The need to rely on temperature in addition to pressure is also illustrated in the report titled Subsurface Heating Events at Solid Waste and Construction and Demolition Debris Landfills: Best Management Practices at *http://www.epa.state.oh.us/Portals/34/document/guidance/gd_1009.pdf.*

3. Landfills Recirculating Leachate or Adding Other Liquids

In the ANPRM and proposed Emission Guidelines, the EPA solicited input on whether additional action should be taken to address emissions from wet landfills (*i.e.,* landfills that recirculate leachate or add liquids). Commenters differed on whether the EPA should require separate thresholds or different lag times for landfills that recirculate leachate or add liquids. (The lag time is the time period between when the landfill exceeds the emission rate threshold and when controls are required to be installed and started up.)

Comments: Commenters supported more environmentally protective requirements for wet landfills and asserted that wet landfills produce more methane but actually collect less. Commenters said that the EPA should shorten the lag time for installing controls for these landfills. Other commenters opposed separate requirements for wet landfills and contended that additional requirements for wet landfills would achieve minimal emission reductions and would result in a significant additional burden for landfills that recirculate leachate. One commenter said that the EPA should focus on potential emission reductions at landfills that recirculate leachate.

Commenters also differed on what methane generation rate (k-value) should be used in the landfill Emission Guidelines for wet landfills. One commenter indicated that they have previously provided several studies on k-values for wet landfills to EPA and urged the EPA to update the emission factors for wet landfills based on this literature prior to adjusting the control requirements at landfills recirculating leachate or adding other liquids. Another commenter asked the EPA to use higher, more representative k-values, or perhaps a sensitivity analysis for a range of k-values to estimate the impacts of controlling emissions from wet landfills in the landfills Emission Guidelines.

Response: Based on the diverse nature of the feedback provided and several other outstanding EPA actions affecting the control requirements and emission factors for wet landfills, the EPA is not creating separate emission threshold or lag time requirements for wet landfills in this action. Instead, the EPA believes it is appropriate to further assess emissions from wet landfills prior to taking additional action on control requirements or changes to the k-values. As a result, the EPA is finalizing additional electronic reporting requirements for wet landfills with a design capacity of 2.5 million Mg or greater to inform potential future action on wet landfills. The final rule is limiting reporting of these additional data to wet landfills that meet the current size threshold of 2.5 million Mg of design capacity to be consistent with the universe of landfills that are affected by the rule.

Specifically, the final Emission Guidelines require annual electronic reporting of the volume of leachate recirculated (gallons per year) and the volume of other liquids added (gallons per year), as well as the surface area over which the leachate is recirculated (or sprayed), and the surface area (acres) over which any liquids are applied. The quantity of leachate recirculated or liquids added should be based on company records or engineering estimates. The initial report will collect historical data for the 10 years preceding the initial annual reporting year, to the extent the data are available in on-site records, along with data corresponding to the initial reporting year. After the initial report, the other annual electronic reports will include only the quantities of leachate recirculated and/or added liquid and their corresponding surface areas for each the subsequent reporting year. The EPA believes many landfills, especially those operating with a Research, Development, and Demonstration (RD&D) permit, already keep records and may submit reports containing quantities of liquids added. So, the effort to track these additional data is expected to be minimal. RD&D permits are issued through Resource Conservation and Recovery Act (RCRA) subtitle D, part 258 regulations for MSW landfills. The EPA is also aware of some state rules that require reporting of leachate or added liquids outside of the Clean Air Act reporting requirements. Consolidating these data in an electronic format in a central repository can help inform how leachate or added liquids affect LFG generation and collection whether air emission standards should be adjusted for wet landfills.

The EPA is also requiring the landfill to report the total waste disposed (Mg) in the area with recirculated leachate and/or added liquids, as well as the annual waste acceptance rates (Mg/yr) in those same areas. Recognizing that the waste quantities may be tracked at the scale house entry to the landfill and not the specific cell where the liquids are added, the EPA is allowing the landfill to report data based on on-site records or engineering estimates.

The EPA is exempting landfills in the closed landfill subcategory from this wet landfill report recognizing that this information would be difficult to obtain from this subcategory of landfills, these landfills are unlikely to still be adding liquids if closed, and also because the gas generation from these landfills is on the downward side of their gas generation curve. In addition, for similar reasons the EPA is allowing owners or operators of landfills to discontinue annual reporting of the wet landfill report after the landfill has submitted its closure report.

The EPA is also aware of annual LFG collected and annual LFG generation data electronically reported to 40 CFR part 98, subpart HH, of the GHGRP and therefore the EPA is not requesting reporting of these data in this rule to avoid duplicative requests. However, the EPA may link the wet landfill practices data collected under the landfills NSPS with the annual gas collected data under subpart HH in order to inform how liquids addition affects LFG emissions. Similarly, the EPA understands that precipitation may affect gas generation. However, since precipitation data are readily available through the National Weather Service, the EPA is not requiring reporting of this parameter. Instead, the EPA will use existing electronic data already available to link up with data collected under this final rule. These additional data will be used to assess the appropriateness of potential future action on wet areas of landfills.

The Paperwork Reduction Act (PRA) requires each federal agency to obtain OMB approval before undertaking a collection of information directed to 10 or more people. The PRA applies whether a ''collection of information is mandatory, voluntary, or required to obtain or retain a benefit.'' The EPA believes the additional data on wet landfills will be beneficial for evaluating whether separate thresholds for wet landfills are appropriate when revising future MSW landfill standards. Because the EPA understands that many of the data elements in the wet landfill report, including quantities of leachate or other liquids added and the surface areas over which those liquids are added are tracked at a state level as part of a leachate management or RDD permit, the EPA does not anticipate these data. Additionally, the EPA is allowing landfill owners or operators to report the data elements in the wet landfill monitoring report using either engineering estimates or on-site records to minimize the burden on respondents, depending on the types of records the landfill owner/operator may keep.

This is a new rule and a new collections submitted to OMB under

EPA ICR number 2522.02. This collection is similar to collections for subpart Cc. Thus, many of the line item burden estimates in this ICR estimate are the same as the burdens submitted to OMB under ICR number 1893.06 for the most recent ICR renewal for subpart Cc.

4. Portable Gas Analyzers

Commenters on the proposed NSPS (79 FR 41796) requested that the EPA specify that portable gas composition analyzers are an acceptable alternative to Methods 3A or 3C, and noted that these devices are commonly used in practice to measure wellhead parameters and are calibrated according to the manufacturer's specifications. Currently, approvals of these analyzers are done on a case-by-case basis. Therefore, in the preamble for the proposed revisions of the Emission Guidelines (80 FR 52141), the EPA requested data or information on using a portable gas composition analyzer according to Method 3A for wellhead monitoring. The EPA also requested data on other reference methods used for calibrating these analyzers.

Comment: Many commenters supported the use of portable gas composition analyzers and requested that the EPA specify that these analyzers may be used as an approved alternative monitoring method for well monitoring. Three state agencies indicated the use of the portable analyzers is common practice. One of these agencies stated that Method 3A and Method 3C are designed to be used in "quasi-CEMS" and/or "laboratory benchtop" situations and most landfill operators are not using this type of equipment to test wellhead LFG; instead, landfill operators are using handheld-size portable analyzers. Another state agency stated that portable gas composition analyzers (*e.g.,* Landtec GEM 2000) are a standard for conducting MSW landfill well monitoring and the analyzers provide additional information on gas composition than what the current Emission Guidelines require, which provides operators with a better understanding of the condition of the landfill. This commenter said that a primary advantage of portable gas composition analyzers, for both landfills and regulators, is that these devices take and record the monitored readings (as well as other information on gas composition that is not required to be monitored in the Emission Guidelines), which can then be downloaded into a spreadsheet and prevent landfills from making data collection mistakes. The commenter suggested that the EPA and state air pollution control agencies would benefit if the EPA were to require landfills to submit, in their semi-annual reports, all of the monitoring data recorded by portable gas composition analyzers.

One commenter stated that most portable gas composition analyzers can be used to measure the oxygen level at the wellhead and can be calibrated according to Method 3A, but are unlikely to be calibrated according to Method 3C (to measure oxygen or nitrogen levels) because such calibration requires the use of gas chromatograph equipment with a thermal conductivity detector and integrator. The commenter said that Method 3A is straightforward and does not specify a particular technology. Several commenters specifically referenced the comments from an equipment manufacturer that provided specific details on how its Landtec GEM Series portable analyzers are able to comply with each specific requirement in Method 3A, including the calibration requirements. Two of these commenters said that portable gas composition analyzers should be allowed in both the Emissions Guidelines and NSPS. Another of these commenters requested that the EPA add language to the rule to recognize that balance gas is commonly used as a surrogate for nitrogen.

With regard to the EPA's request for data on other reference methods used for calibrating portable gas composition analyzers, one commenter suggested that the EPA allow ASTM D6522 as an alternative to Method 3A because an analyzer can easily be calibrated for oxygen alone following ASTM D6522. The commenter stated that although the QA/QC procedures in ASTM D6522 are different from Method 3A, they are just as rigorous as Method 3A. The commenter stated that it has extensive data available showing portable gas composition analyzers are routinely calibrated according to ASTM Method D6522 for measuring NOx, CO, and oxygen during engine testing. This commenter also stated that any analyzer or device must be calibrated according to an EPA approved method and not just manufacturer's specifications.

Response: The EPA appreciates the commenters providing information regarding the use of portable gas composition analyzers for landfill monitoring. Commenters provided data showing that their portable gas composition analyzers are used to monitor the oxygen level at a wellhead and are capable of meeting the calibration requirements in Method 3A. Therefore, in this action, we are clarifying the use of portable gas composition analyzers with Method 3A. A portable gas composition analyzer may be used to monitor the oxygen level at a wellhead provided that the analyzer is calibrated and meets all QA/QC according to Method 3A. Although we did not receive enough information regarding calibration methods that could be used on a portable gas composition analyzer to monitor the nitrogen level at a wellhead, any portable combustion monitor analyzer that uses gas chromatography and thermal conductivity technology may be used with Method 3C. Other technologies for the measurement of nitrogen may be used in lieu of Method 3C through the administrative alternative test method process outlined in 40 CFR 60.8(b)(2).

Regarding the suggestion to allow ASTM D6522–11 as an alternative to Method 3A, the EPA thanks the commenter for their perspective. As long as all the quality assurance is conducted as required by ASTM D6522–11, then ASTM D6522–11 may be used as an alternative to Method 3A for wellhead monitoring (prior to combustion). Examples of quality assurance required by ASTM D6522–11 include, but are not limited to: analyzers must have a linearity check, interference check, bias check using mid-level gases, stability check, and be calibrated before a test; and a calibration error check and the interference verification must be conducted after the testing has occurred. Due to a different sample matrix typically found in post-combustion gas streams as stated in the applicability of ASTM D6522–11, the interference check must be done on the oxygen measurement with the appropriate gases (*e.g.,* carbon dioxide, VOC mixture, and methane) and concentration ranges. The ASTM D6522–11 method also has calibrations before and calibration checks after testing. According to Methods 3A, 3C, and ASTM D6522–11, the data are valid only when they pass the bias check or zero and upscale calibration error check. The EPA does not believe manufacturers' specifications are rigorous enough to ensure data are of a proper quality.

5. More Precise Location Data

The EPA proposed more specific requirements for reporting the locations where measured methane surface emissions are 500 ppm above background (80 FR 52124). Specifically, the EPA proposed to require landfills to report the latitude and longitude coordinates of each SEM exceedance using an instrument with an accuracy of at least 3 meters. This includes surface methane readings above 500 ppm for landfills conducting quarterly SEM with

GCCS in place, as well as landfills that are conducting Tier 4 SEM to determine the timing of GCCS installation.

Comments: Several commenters supported and several commenters opposed the EPA's proposed requirement to report the latitude and longitude coordinates of each methane surface emissions exceedance using an instrument with an accuracy of at least 3 meters.

Of those commenters that supported the requirement, one said that making global positioning system (GPS) coordinates of each exceedance available would assist owners or operators in determining the location and timing of exceedances relative to the GCCS components and would also assist in inspections and enforcement. This commenter added that these requirements provided important compliance monitoring assurances as well as important information to landfill owners or operators regarding their GCCS effectiveness. Other supportive commenters argued that all SEM data and GPS coordinates should be recorded, no matter whether there is an exceedance. One of these commenters, a state agency, said that the NSPS and Emission Guidelines have historically required retention of only exceedance data, but GPS data correlated with SEM readings would be an invaluable addition to the monitoring procedure. Another commenter said recording all SEM data (rather than only exceedances) was necessary to show compliance with the monitoring requirement; and by linking the methane readings with positioning data, the time required to process the data would be reduced. Commenters said that by correlating the SEM readings directly with the location of the reading, facilities and their regulators could easily gain a clear picture of how the LFG collection system was functioning and anticipate problems before they arose by tracking trends in the data.

Of the commenters that opposed the requirement that owners or operators of landfills report the latitude and longitude coordinates of each exceedance using an instrument with an accuracy of at least 3 meters, one said it was unclear why coordinate information must be reported, given that it merely adds burden for sites to collect and report as well as for agencies to review. Two of these commenters argued that the added expense to purchase an instrument (*i.e.*, a GPS device), use that GPS device in the field, and then plot the GPS data on a map, may provide no additional value to the operator compared to marking exceedances with marker flags. One of these commenters stated that 3 meters is too much of an error range such that the use of GPS alone may not allow the operator to return to the exact spot of the exceedance, and may still necessitate the use of a marker flag. Another of these commenters added that the existing approach of marking exceedances at their exact physical location with a marker flag is actually more accurate because it does not rely on a technology with accuracy limitations.

Some of the commenters that oppose the requirement said that it is unclear from the docket materials (*e.g.*, the Regulatory Impact Analysis) whether the EPA evaluated: (1) If GPS equipment can achieve an accuracy of at least 3 meters; (2) the cost to purchase or rent GPS equipment; and/or (3) the size and weight of the GPS equipment with regard to requiring a technician to carry another field monitoring instrument. One of these commenters added that because GPS equipment is not typically integrated into other monitoring devices, monitoring technicians will be required to carry the GPS equipment in addition to the monitoring equipment, which could be difficult and present a safety concern.

Response: The EPA is finalizing a requirement for landfills to report the latitude and longitude coordinates of each surface emissions exceedance, as proposed, except the instrument accuracy must be at least 4 meters instead of 3 meters. GPS technology is readily available and is currently in use at landfills in California and other landfills employing electronic LFG data management systems. These GPS devices have the ability to identify latitude and longitude coordinates in decimal degrees with at least five decimal places. This level of accuracy and precision is consistent with the requirements in Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards (80 FR 75250). The EPA is aware of one device that is already in use by some landfills in California to conduct surface emissions monitoring and to create a more comprehensive understanding of the GCCS. The instrument, containing a flame ionization detector (FID), is linked by Bluetooth wireless technology to a GPS-enabled handheld field instrument. This instrument has an accuracy of 2–4 meters.

When reviewing site records on the location of the traversed path and where surface emission leaks were identified, inspectors will be able to identify areas of the landfill where surface monitoring activities may be incomplete, which may assist with targeting inspections to problem areas of the landfill. In addition, more precise location data will allow the landfill owner or operator to overlay the coordinates of surface exceedances against maps of the GCCS to determine spatial and temporal patterns of exceedances relative to GCCS components. Both the landfill owner or operator and regulators can use locational data to gain perspective on how the LFG collection system is functioning over time and will allow the landfill to track trends in GCCS performance and cover practices.

Using GPS locational data will provide a more robust and long-term record of GCCS performance compared to the short-term practice of simply marking an exceedance location with a marker flag. Owners or operators may continue the practice of marking exceedances with a flag, but GPS data will allow the landfill owner or operator to return readily to the location of the exceedance to not only take the required corrective action, but also to track and inform long-term performance of the GCCS to minimize emissions.

The EPA included the rental price of a Trimble Integrated Landfill Gas Solution device, which combines a FID linked by Bluetooth wireless technology to a GPS-enabled handheld field instrument, in the revised testing and monitoring cost analysis for both the final Emission Guidelines and final NSPS. The GPS location is recorded in real time as the technician traverses the path so the labor involved in gathering and recording the data with GPS coordinates is expected to be minimal. In fact, the recording of each surface reading and the corresponding locational data is automatic, in contrast to the older technology, which may have involved handwriting an exceedance in a notebook and then transposing the data to a computer after returning from the field. Eliminating transposing the data could reduce data entry errors and improve data accuracy and credibility. The GPS device is already in use by landfills that maintain an electronic LFG data management system to map long-term trends in GCCS performance. The GPS device weighs approximately 21 ounces (including battery weight) and can be clipped to a belt or attached to a backpack to allow the technician to complete the monitoring safely.

B. Tier 4

In the 2015 Emission Guidelines proposal, the EPA proposed Tier 4 as an alternative site-specific emission threshold determination for when a landfill must install and operate a GCCS (80 FR 52112). For both Tier 4 SEM for determining the timing for GCCS installation and SEM to ensure a well operated GCCS, the EPA considered limiting SEM during windy conditions. Specifically, in the Emission Guidelines, the EPA proposed that SEM must be terminated when the average wind speed exceeds 5 mph or the instantaneous wind speed exceeds 10 mph. However, the EPA also proposed that the Administrator may approve alternatives to this wind speed surface monitoring termination for landfills consistently having measured winds in excess of these specified limits.

Comments. The EPA received numerous comments on the Tier 4 provisions included in the 2015 Emission Guidelines proposal. The discussion below includes all comments related to changes since the 2015 proposal; more detailed comments are available in the Response to Comments document. A summary of the initial comments received in response to our request for comments for a Tier 4 provision in the 2014 ANPRM was provided in the preamble to the proposal (80 FR 52112).

Which landfills should qualify. Some commenters believe that the EPA should limit the types of landfills that qualify for Tier 4. One commenter opposed the inclusion of a Tier 4 option for new landfills, stating that it allows a subset of new landfills to delay methane capture requirements when these landfills will be required to install a GCCS in the future and should have a GCCS designed and installed during landfill construction. One commenter encouraged the EPA to ban Tier 4 for landfills with a voluntary (non-regulatory) GCCS because it is possible that GCCS design, monitoring, recordkeeping, and reporting requirements could be avoided indefinitely through the use of a non-regulatory GCCS that may not provide the same level of control as required by the EPA landfills regulations. Another commenter thinks that Tier 4 could be conducted at landfills with a GCCS installed, but that the GCCS should follow typical operational conditions during the Tier 4 test. In other words, if portions of the site are typically offline due to decreased gas flow, the commenter (0215–0197) thinks those portions must remain offline during Tier 4. Further, one commenter believes that no means of gas control whatsoever should be employed during the Tier 4 exemption.

Frequency. There were a variety of opinions on how often SEM should be conducted for Tier 4. One commenter suggested the SEM should be done annually instead of quarterly. Two other commenters were concerned with reducing the frequency to semi-annually unless the landfill no longer accepted waste. One of these commenters noted that if a landfill has already crossed the 34 Mg/yr NMOC threshold and the facility continues to receive solid waste, then the expected gas generation will continue to increase.

Windy conditions. Many commenters, including many state agencies, opposed limiting surface monitoring during windy conditions, stating that the wind restrictions would be a significant inhibitor to completing the required monitoring in many regions of the country due to typical windy conditions. Commenters also stated that it would be difficult to schedule and reschedule dedicated sampling crews.

Commenters claimed that climate conditions across the United States are too variable, that monitoring the wind using an anemometer is not representative of wind conditions where the surface monitoring is required (5–10 cm of surface), and that it is difficult to assemble monitoring team and schedule monitoring events if they may be cancelled due to wind. One commenter supports the development of a Tier 4 SEM methodology that is functional during windy conditions. Other commenters support the removal of the wind speed criteria and replacement with a requirement that surface monitoring be performed during typical meteorological conditions. Lastly, one commenter pointed out that the Tier 4 proposal is inconsistent with the ongoing quarterly SEM requirements since Tier 4 has wind restrictions and the ongoing quarterly SEM does not.

One commenter noted that EPA recognized wind speed can skew the results of SEM. Another commenter did not submit comments specific to the wind speed limitations; however, this commenter supported the SEM approach in the CA LMR, which does include wind speed restrictions.

Reporting requirement. Commenters supported the notification requirement; however, one commenter believes landfills should not be required to reschedule monitoring events based on the availability of regulatory authorities. Furthermore, two commenters thought the notification requirement was acceptable but with the existing wind requirements, coordination with regulators could become even more challenging. Another commenter did not support the notification requirement because Tier 4 is voluntary.

Response: After considering public comments and input from small entity outreach, the EPA is finalizing Tier 4 SEM procedures for determining when a landfill must install a GCCS. Tier 4 provides operational flexibility and allows owners or operators of landfills that have exceeded the modeled NMOC emission rate threshold to demonstrate that site-specific surface methane emissions are below a specific threshold. Commenters raised some valid points, however, and based on our consideration of that input, we are making some adjustments to the final rule.

In response to public comments concerned with implementation of Tier 4 with wind speed restrictions, the EPA is retaining a wind speed limitation with allowance of a wind barrier when onsite wind speed exceeds the limits in the regulation. The EPA is also providing additional clarifications about probe placement (as described in sections IV.A.2 and V.B of this preamble) for Tier 4 SEM. In the proposed NSPS (80 FR 52136), the EPA acknowledged concerns about the accuracy of SEM under windy conditions. The EPA is including the wind speed restriction, because air movement can affect whether the monitor is accurately reading the methane concentration during surface monitoring. Because Tier 4 is an optional emission threshold methodology, the EPA believes that wind speed restrictions and the use of wind barriers are appropriate to ensure the reliability of the results, which in turn determine the timing of GCCS installation. We also refined the wind speed criteria to account for gusts up to 10 mph. The EPA is not finalizing a variance for wind speed, but is allowing the use of a wind barrier. In the proposed NSPS (80 FR 52136), the EPA acknowledged concerns about the accuracy of SEM under windy conditions. The EPA also expressed concern about whether monitors could accurately read methane concentrations or provide representative results. The EPA has provided the Tier 4 approach as a flexible alternative to traditional modeling based approaches; but still asserts the importance of accurate measurements due to the use of the SEM approach to determine installation of controls.

In addition, Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr but less than 50 Mg/yr using Tier 1 or Tier 2 (a landfill need not model emissions under Tier 3 before using Tier 4). Tier 3 was not required because tiers 1 and 2 are more commonly used. If both Tier 1 and Tier 2 indicate NMOC emissions of 50 Mg/yr or greater, then Tier 4 cannot be used. This change avoids a potential conflict between what is required under the Emission Guidelines and what is required by the landfills NESHAP for landfills with modeled NMOC emissions greater than 50 Mg/yr. It also ensures that landfills with modeled NMOC emissions at 50 Mg/yr or more continue to be required to install controls at an NMOC level and on a schedule that is at least as stringent as the current NSPS (40 CFR part 60, subpart WWW). To demonstrate that NMOC emissions are less than 50 Mg/yr according to Tier 1 and Tier 2, landfill owners or operators will continue to calculate the NMOC emission rate and report results annually.

Regarding frequency of monitoring, the EPA is finalizing an approach where quarterly SEM is required for Tier 4 indefinitely unless the landfill is closed. Closed landfills would be able to reduce the frequency of surface emission monitoring to annually after four quarters of no surface exceedances. Landfills that are closed are on the downside of their gas generation profile.

Regarding landfills equipped with a non-regulatory GCCS, the EPA is allowing the non-regulatory GCCS to be in operation during the Tier 4 SEM demonstration, but only if the non-regulatory GCCS has operated for at least 75 percent of the hours the 12 months leading up to the Tier 4 SEM demonstration (6,570 hours), as discussed below. The EPA recognizes that many landfills have acted early to control their emissions and installed a GCCS before surpassing the size and NMOC emission thresholds in the landfills regulations in order to recover and utilize LFG methane for beneficial use, flare for carbon credits, control odors, or meet state-specific regulations that may be more stringent than the federal NSPS standards. Thus, during the SEM demonstration, the non-regulatory GCCS must continue to operate as it normally would to collect and control as much LFG as possible. Although these landfills do not operate their GCCS under the landfills NSPS, they employ the same technology that would be applied to comply with the landfills NSPS. Many of these non-regulatory GCCSs are located at sites that are likely to eventually exceed the NSPS size and NMOC emissions thresholds and thus if no exceedances are identified during a Tier 4 SEM, the system is operating at a level consistent with the landfills NSPS collection and control requirements and operational standards at a point in time earlier than when federal regulations would require. These near-term methane reductions from non-regulatory GCCS are beneficial to the environment and the goal of achieving short-term emission reductions of methane, a potent greenhouse gas. In addition, landfill owners or operators have incentive to operate the GCCS as efficiently as possible to collect and control LFG to avoid surface exceedances, as it would reduce paperwork requirements associated with the compliance provisions of the landfills NSPS. The non-regulatory GCCS would have to be robust to keep readings below 500 ppm methane during an SEM demonstration.

To not allow the Tier 4 demonstration while a non-regulatory GCCS is in operation under these circumstances would create a disincentive for landfill owners or operators to install control systems voluntarily before emissions reach the regulatory threshold for review. The requirement to operate the GCCS at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration (described below) will ensure that the non-regulatory GCCS is in regular use and thus represents accurate operation of the facility.

The landfill owner or operator is allowed to operate the non-regulatory GCCS during the Tier 4 demonstration, but only if the non-regulatory GCCS has operated for at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration (6,570 of 8,760 hours). To demonstrate that the non-regulatory GCCS operated at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration, landfill owners or operators must keep records of the total operating hours of the gas collection system as measured for each destruction device (*i.e.*, at the flare, engine, or other destruction device), as well as the annual operating hours where active gas flow was sent to each destruction device. If the non-regulatory GCCS has not operated at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration, then the landfill is not eligible for Tier 4. The EPA seeks to encourage use of voluntary non-regulatory GCCS systems for early gas collection before emissions reach the regulatory threshold for review, while still allowing landfill owners and operators to use Tier 4 surface emissions monitoring approach to determine if a GCCS is required. We believe that requiring the operation of the non-regulatory GCCS at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration (described below) will ensure that the non-regulatory GCCS is in regular use and thus results would be representative of the operation of the landfill.

Regarding other recordkeeping and reporting requirements associated with Tier 4, landfill owners or operators choosing Tier 4 would continue to calculate the NMOC emission rate and report results in the annual report to demonstrate that NMOC emissions are less than 50 Mg/yr. Once there is any measured concentration of methane of 500 ppm or greater from the surface of the landfill, the EPA is requiring a GCCS to be installed and operated within 30 months of the most recent NMOC emission rate report in which the calculated NMOC emission rate equals or exceeds 34 Mg/yr according to Tier 2. Starting the 30 months from the most recent NMOC emission rate report ensures that a GCCS is installed in a timely manner. The EPA believes that if a landfill owner or operator chooses to use Tier 4 SEM, it is appropriate to require the installation and operation of a GCCS when any reading of 500 ppm or greater is detected during the quarterly SEM event. Since Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr NMOC, but less than 50 Mg/yr using Tier 1 or Tier 2, we would expect the methane emissions at the landfill to be below the 500 ppm threshold. If an exceedance of the threshold is detected, it would be indicative of higher emissions than would normally be expected at a landfill.

The EPA is also finalizing a recordkeeping requirement to take and store digital photographs of the instrument setup. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration. The EPA believes these records will help provide credibility to the Tier 4 sampling results.

The EPA is also finalizing a requirement to notify delegated authorities 30 days prior to the Tier 4 test so that officials can be present to observe the SEM. This notification is consistent with other notification requirements for stack testing. This notification requirement will also mitigate concerns that the SEM is being conducted incorrectly and ensure transparency of results achieved during the SEM approach. In the event the Tier 4 SEM is postponed due to weather conditions or other unforeseen events, the EPA is requiring the owner or operator to notify the delegated authority to arrange a rescheduled Tier 4 SEM date.

Emerging Measurement Technologies. This rulemaking provides certain MSW landfill owners or operators the option of using either modeling or the Tier 4 SEM approach to determine whether controls are required to be installed at specific landfills. Current modeling approaches, which rely on the decomposition rate of different waste streams buried in a landfill, are prone to uncertainties due to inaccuracies in input data and often unverifiable assumptions. Current surface emission measurement methodologies can also have associated uncertainties.

New methane emissions measurement methodologies are emerging that are anticipated to provide landfill methane emission rates (mass per unit time) over time, thereby reducing significantly the uncertainty associated with current modeling and emission measurements approaches. Two promising examples of new methane measurement methodologies being used by research groups to quantify landfill methane emissions are mobile tracer correlation (TC)[44] [45] [46] [47] and discrete area source eddy covariance (DASEC).[48]

1. *Mobile tracer correlation.* This methodology provides a "snap-shot in time" assessment of whole facility methane emissions using on-site release of atmospheric tracer gases. It provides a total mass emission rate of methane (or other gas) per unit of time. An instrumented vehicle driving 1 km to 4 km downwind of the landfill simultaneously measures the emitted landfill methane plume along with the superimposed tracer gas release. The landfill methane emission rate is determined through a simple ratio to the known tracer gas release rate. The technique has been demonstrated using a variety of tracer gases and instruments by a number of groups to investigate emissions from landfills and other sources. The mobile tracer correlation approach is under development by the EPA as a Category C "other test method (OTM)" with potential posting in 2017 (*https://www3.epa.gov/ttnemc01/prelim.html).*

2. *Eddy covariance (EC).* This micrometeorological method estimates the source emission rate from the vertical wind speed and gas concentration above the emitting surface. This technique measures the emissions flux in mass of methane (or other gas) per unit area. The technique is well-established for measurement of emission fluxes from spatially-extended homogenous sources, such as very large, flat fields. Discrete area source eddy covariance (DASEC) is an application of EC to finite, heterogeneous area sources. This application of EC has been recently demonstrated on landfills, although method development questions on the effects of topography and variable observational foot print remain. DASEC provides the potential for long term (near continuous) measurements of discrete sections of a landfill using solar-powered on-site instrumentation. Development of this type of long term measurement capability is critical to better understand and *track changes in landfill emissions overtime that may be caused by both site management and atmospheric factors.

In sum, as noted above, these techniques are still being investigated and additional work will be needed before the EPA can deem them ready for use in this application. Once additional research is completed, we believe that DASEC used in combination with mobile TC will provide a characterization of methane landfill emissions with significantly reduced uncertainty over current models or measurement techniques.

C. Changes To Address Closed or Non-Productive Areas

1. Closed Landfill Subcategory

In the 2015 Emission Guidelines proposal, the EPA proposed a separate subcategory for landfills that closed before August 27, 2015. These landfills would be subject to an NMOC emission threshold of 50 Mg/yr NMOC for determining when controls must be installed or removed, rather than the 34 Mg/yr NMOC emission threshold (or corresponding Tier 4 emission threshold) that would apply to open landfills. In addition, the EPA requested comments on extending the subcategory of closed landfills to those that close no later than 13 months after publication of the final Emission Guidelines in the **Federal Register**.

Comment: Commenters generally favored the creation of a closed landfill subcategory and believe it was appropriate for closed landfills to be categorized separately. One commenter agreed that a separate category is appropriate, but only if EPA decides to lower the NMOC emission threshold thus ensuring that closed landfills with low emissions are not burdened with a requirement to install a GCCS. Another commenter suggested that the EPA exempt closed landfills from 40 CFR part 60, subpart Cf, entirely since facilities that no longer have income from waste acceptance have financially planned for closure. The commenter believes that if these landfills were included in the new rule, it would cause financial burden.

Many commenters, including one state agency, support the expansion of the closed landfill subcategory to include those facilities that closed no later than 13 months of publication of the Emission Guidelines. Commenters believe it is critical that landfills that are planning to close are given the necessary time to meet all criteria and file required documentation to achieve closed status. Another commenter believes the EPA should provide the opportunity for landfills to be closed under the Emission Guidelines until the state or federal regulations implementing the revised Emission Guidelines are effective (*i.e.,* through a revised state or federal plan). This would allow more landfills nearing the end of their useful lifetime with little ability to change their fees or plan for longer GCCS operation the chance to close and remain under current regulations.

Response: After considering public comments, the EPA is finalizing the subcategory for closed landfills and is expanding the subcategory to include those landfills that close on or before September 27, 2017. Landfills in the closed landfill subcategory continue to be subject to a 50 Mg/yr NMOC emission rate threshold for installing a GCCS, consistent with the NMOC threshold in 40 CFR part 60, subparts Cc and WWW.

The EPA recognizes that after landfills stop accepting waste and close, LFG flows decline as well as the corresponding ability to achieve additional reductions. Many of these closed landfills are subject to the emission control requirements in the current Emission Guidelines (40 CFR part 60, subpart Cc, or corresponding state or federal plan) or the current

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[44] Development of a mobile tracer correlation method for assessment of air emissions from landfills and other area sources, Foster-Wittig, T.A.; Thoma, E.D.; Green, R.B.; Hater, G.R.; Swan, N.D.; Chanton, J.P. Atmos. Environ. 2015, 102 (0), 323–330.

[45] Quantification of methane emissions from 15 Danish landfills using the mobile tracer dispersion method, Mønster, J.; Samuelsson, J.; Kjeldsen, P.; Scheutz, C. Waste Manage. 2015, 35 (0), 177–186.

[46] Methane Emissions Measured at Two California Landfills by OTM–10 and an Acetylene Tracer Method, Green, R.B., Hater, G.R., Thoma, E.D., DeWees, J., Rella, C.W., Crosson, E.R., Goldsmith, C.D., Swan, N., Proceedings of the Global Waste Management Symposium, San Antonio, TX, October 3–6, 2010.

[47] Development of Mobile Measurement Method Series OTM 33; Thoma, E.D.; Brantley, H.L.; Squier, B.; DeWees, J.; Segall, R.; Merrill, R.; Proceedings of the Air and Waste Management Conference and Exhibition, Raleigh, NC, June 22–25, 2015.

[48] Using Eddy Covariance to Quantify Methane Emissions from a Dynamic Heterogeneous Area, Xu, L., Lin, X., Amen, J., Welding, K. and McDermitt, D. Impact of changes in barometric pressure on landfill methane emission. Global Biogeochemical Cycles 2014, 28(7), pp. 679–695.

NSPS (40 CFR part 60, subpart WWW) and have achieved significant reductions. However, commenters report that declining gas flows make it difficult to operate a GCCS according to the landfills regulations and many closed landfills must use supplemental fuel to properly operate control devices such as flares for example. In addition, many closed landfills no longer have income from tipping fees, and have either decommissioned their GCCS or are in process of doing so. Thus, the EPA recognizes that it could be financially burdensome for landfills that are already closed to restart or expand their GCCS. For these reasons, the EPA is finalizing the subcategory of closed landfills.

To give closed landfills or landfills that are planning to close more time to complete the steps to reach closure, the EPA is expanding the closed landfill subcategory to include those landfills that close on or before September 27, 2017. Closed landfills must submit a closure report to the Administrator within 30 days of waste acceptance cessation. The Administrator may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the closure requirements under RCRA (40 CFR 258.60). Closure criteria include a requirement to prepare a written closure plan and to install a final cover system that is designed to minimize infiltration and erosion.

Landfills in the closed landfill subcategory of the Emission Guidelines would be exempt from initial reporting requirements in subpart Cf, provided that the landfill already met these requirements under subparts Cc or WWW of 40 CFR part 60.

For landfills that are expected to close after September 27, 2017, the EPA understands that gas quality will remain a concern and has revised the GCCS removal criteria, as discussed in section IV.A.5 of this preamble.

2. Criteria for Removing or Decommissioning a GCCS

The proposed revisions to the Emission Guidelines in 2015 modified the criteria that allow a landfill owner or operator to cap or remove the GCCS. Specifically, the proposal refined the 15-year criterion by allowing a landfill owner or operator to demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows. In addition, the EPA tightened the NMOC emissions criterion, requiring the controls until the NMOC emissions were below 34 Mg/yr for three consecutive quarters to be consistent with the emission threshold for installing controls. For closed landfills, the NMOC emissions criterion remained at 50 Mg/yr to be consistent with the emission threshold for the closed landfill subcategory. Finally, the proposed Emission Guidelines added an alternative removal criterion based on site-specific SEM of methane. This alternative would allow the owner or operator to demonstrate for four consecutive quarters that there are no surface emissions of 500 ppm or greater from the closed landfill or area of an open landfill that is closed. The EPA received numerous comments on the revised set of GCCS removal criteria.

Comment: Commenters did not agree on the proposed alternative to allow an SEM demonstration as a criterion for removing a GCCS. Commenters in favor of an SEM demonstration for GCCS removal agreed with the flexibility that the approach would offer, but commenters that opposed the criterion expressed concern about emissions once the GCCS was no longer operating.

Some commenters opposed SEM procedures for determining removal or decommissioning of the GCCS. One commenter expressed concerns with relying on surface emission testing because the intervals are too far apart to detect localized high emissions and low surface emission readings during a dormant period could lead to uncontrolled emissions at a later period. The commenter (0215–0121) added that even in a closed landfill the decay process is not complete and gas collection systems should stay in place. Another commenter opposed SEM specifically at closed areas of open landfills due to gas migration concerns and difficulty in defining these areas.

Several commenters representing industry and state agency interests supported the use of SEM procedures to help determine the removal or decommissioning of existing GCCS. Commenters supported the use of SEM to allow the flexibility to confirm when a closed landfill or area of an open landfill that is closed is no longer producing gas in significant quantities could remove or decommission all or a portion of the GCCS. Several of these commenters referenced a rationale similar to the one they provided for supporting the use of Tier 4 SEM for determining GCCS installation as discussed in section VI.B of this preamble.

Commenters that supported an SEM demonstration for GCCS removal presented several options on how to implement the SEM procedure. Several commenters requested that the EPA provide a "step-down" procedure for scaling down GCCS operations in nonproducing areas and allowing a GCCS to be removed from rule applicability. Two commenters made recommendations on SEM procedures for GCCS removal or decommissioning, which included shutting down the GCCS for 30 days following a Tier 2 test showing NMOC emissions below the threshold, then relying on subsequent SEM demonstrations and corrective action to determine whether the GCCS could remain off. Other commenters also stated that when considering SEM for removing the GCCS, quarterly SEM should be performed at steady state conditions. As LFG generation declines, one commenter suggested that some wells may be removed from service; however, such wells must not be turned on in order to pass quarterly SEM and subsequently turned back off for the remainder of the quarter. Another commenter suggested that EPA not rely solely on surface emissions when defining a closed landfill in arid areas, but instead should consider the gas quality being collected (methane, carbon dioxide, negative pressure, or nitrogen/oxygen content) when determining when a GCCS can be removed.

Regarding the 15-year criterion in the 2015 Emission Guidelines, several commenters noted that the provision to allow landfills to demonstrate the GCCS could not be operated for 15 years due to declining flow was vague, and more guidance was needed to provide instructions to landfills on how to demonstrate this to regulators.

Response: After considering public comments, the EPA is finalizing criteria for capping, removing, or decommissioning the GCCS that are similar to the criteria in 40 CFR part 60, subpart Cc, but have been adjusted to reflect the NMOC emission threshold in the final rule and to provide flexibility on the requirement to operate the GCCS for 15 years. The final criteria are: (1) The landfill is a closed landfill, (2) the GCCS has been in operation for 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) three successive tests for NMOC emissions are below the NMOC emission threshold of 34 Mg/yr for open landfills and below 50 Mg/yr NMOC for closed landfills. The three successive tests for NMOC emissions makes the threshold for removing a GCCS consistent with the threshold for installing a GCCS. The EPA is not finalizing an alternative set of criteria for capping, removing, or decommissioning a GCCS that includes a SEM demonstration.

While a SEM approach has been allowed for installation of controls, the

EPA believes it is not appropriate to allow SEM demonstrations for capping, removing, or decommissioning a control system. The EPA recognizes the unique emissions profile for landfills including the ability of these sources to release emissions for decades. For these reasons, the EPA believes it is appropriate to ensure that controls are installed and properly maintained for the appropriate period of time. The EPA believes sufficient flexibility has been added to the control removal approach by allowing a demonstration of the system's inability to operate for 15 years due to declining gas flows and a calculation of the NMOC emission rate. Further, during the comment period, concerns were raised about changes in the waste mass over time and how the SEM approach could inadvertently allow landfills whose emissions were in a period of dormancy, rather than a decline in their emissions profile, to remove controls. Agency enforcement personnel are also aware of situations where the installation of additional wells led to additional gas capture at sites asserting declining emissions. The EPA understands the importance of gas capture from landfills and believes the SEM approach for control removal may have the unintended consequence of allowing controls to be removed when significant gas capture is still possible. As a result, the EPA is not finalizing the SEM approach for removal.

Several commenters noted that the provision provided in the 2015 Emission Guidelines to allow landfills to demonstrate the GCCS could not be operated for 15 years due to declining flow was vague, and more guidance was needed to provide instructions to landfills on how to demonstrate this to regulators.

Regarding the 15-year criterion, the EPA is retaining the requirement to operate the GCCS for 15 years, but is providing flexibility to address declining gas flow in areas where the GCCS has not operated for 15 years. If the landfill is closed and the NMOC emission rate is less than 34 Mg/yr, but the GCCS has not operated for 15 years, the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows. The EPA is providing this flexibility to address areas of declining gas flows due to the age of the waste, arid climate, or low organic content. Given that there are unique situations that could cause low gas flow, or low gas quality which would cause a GCCS to be unable to operate for 15 years, the EPA is not providing prescriptive criteria for how a landfill owner or operator can demonstrate that a GCCS could not operate for 15 years and will proceed with a site-specific approach for handling these unique cases. Some examples of data elements that could be used to demonstrate a GCCS is unable to operate may include supplemental fuel use at the flare to sustain operations or LFG quality sample measurements showing methane content lower than what is viable for combustion in the destruction device.

D. Startup, Shutdown, and Malfunction Provisions

In July 2014, the EPA proposed that the standards in subpart XXX apply at all times, including periods of startup or shutdown, and periods of malfunction. In addition, the proposed NSPS included recordkeeping and reporting requirements for all landfill owners or operators to estimate emissions during such periods.

Similarly, the EPA proposed standards that apply at all times in the August 2015 proposed Emission Guidelines. However, the EPA considered how the landfill emissions differ from those generated by industrial or manufacturing sources. Specifically, the EPA noted that landfill emissions are produced by a continuous biological process that cannot be stopped or restarted. Therefore, the primary concern related to SSM is with malfunction of the landfill GCCS and associated monitoring equipment, not with the startup or shutdown of the entire source. SSM periods that we have determined should be covered by the work practice standard are those periods when the landfill GCCS and associated monitoring equipment are not operating.

To address these SSM periods, the EPA proposed in the 2015 Emission Guidelines that in the event the collection or control system is not operating the gas mover system must be shut down and all valves in the GCCS contributing to venting of gas to the atmosphere must be closed within 1 hour of the collection or control system not operating. This provision is consistent with 40 CFR part 60, subpart WWW. Additionally, the EPA proposed recordkeeping of combustion temperature, bypass flow, and periods when the flare flame or the flare pilot flame is out. The EPA received numerous comments on the 2014 proposed changes to the NSPS and the additional proposed edits made in the 2015 Emission Guidelines. A summary of these comments are presented below.

Sierra Club v. *EPA, 551 F.3d 1019 (D.C. Cir. 2008).* Many commenters stated that the *Sierra Club* decision applies only to rules with numerical emission limits and not to rules that are specified as a work practice. One of these commenters elaborated that *Sierra Club* applies to section 111 of the Clean Air Act. Therefore, the commenter concluded that landfills subject to the NSPS are not bound by the findings of *Sierra Club* and instead they are legally allowed to develop a clear and achievable landfill rule by considering the unique circumstances that a landfill is a biological process that cannot be stopped or restarted and that the gas collection and control systems must periodically be shut down for maintenance, repair, and expansion.

Retain the 5 day/1-hour exemption for SSM events. Many commenters, including affected industry commenters and some state agencies, disagreed with removing the provisions in 40 CFR part 60, subpart WWW, which allow for exemption periods of 5 days for collection systems and 1 hour for treatment or control devices. These commenters indicated that by removing this provision, state and local agencies could misconstrue the rule to require that a landfill must operate the gas collection system at all times, even during SSM, including periods of collection system construction, expansion, and repair. These commenters suggested instead of removing the exemption provision during periods of SSM, compliance can be maintained as long as the landfill owner or operator minimizes emissions of LFG by following the applicable work practices and restores the system to operation as expeditiously as practicable.

One of the state agency commenters, suggested that the 5-day and 1-hour time limitations in subpart WWW are appropriate for most situations and instead of removing these exemptions, the new subpart XXX could provide a mechanism for the facility to apply to the Administration for an extension of those timeframes. On the contrary, one state agency commenter and an NGO agreed with the standards applying at all times, including periods of SSM.

If the 5 day/1-hour exemption is not retained, the EPA should add a work practice standard for SSM events. One commenter was concerned that the preamble language for the 2014 proposed Emission Guidelines does not clarify how a landfill can demonstrate compliance with the standard during SSM events stating that "compliance with proposed 40 CFR 60.34f(e) does not constitute compliance with the applicable standards in proposed 40 CFR 60.36f" and that "by shutting down flow to the flare or other control devices a source is unlikely to be in violation of the 98 percent emission reduction requirements since there will be no gas flowing to the control device" (see 80 FR 52134–52135). This commenter stated that EPA must clarify this confusion and specify a clear set of work practices (*e.g.*, shut down of the gas mover system and prevention of venting) that constitute compliance during SSM periods when the collection or control system is not operated. Several other industry commenters and the U.S. Small Business Administration also asked that the rule specifically accommodate periods when the collection system is not operating during activities associated with construction, expansion, repair, replacement, testing, upgrades, or other maintenance of the system or its components.

Reporting requirement to estimate NMOC emissions whenever the collection system or control system is not operating. Two commenters representing a state agency and an NGO supported reporting NMOC emissions during SSM periods. Several industry commenters provided numerous technical arguments to explain the infeasibility of accurately estimating NMOC emissions during the short periods of SSM. For example, methods to estimate LFG emissions are based on site-specific variables that estimate LFG generation over the life of the landfill, typically on an annual basis, and cannot be used to estimate hourly or daily emissions. Accordingly, the commenters contended that it is technically and practically inappropriate to require landfill owners/operators to make this estimate for the time periods that the gas collection or control systems are not operated, given the substantial technical uncertainties involved in estimating these emissions over discrete, short-term time periods. Further, other commenters noted that emissions during SSM are expected to be very low, reporting SSM emissions is an onerous and meaningless exercise and is likely to overestimate emissions.

Two commenters asked that if the reporting requirement is retained, the EPA should limit the reporting to periods when the flare is free venting because these are the only emissions that can be estimated accurately. Several commenters asked EPA to develop guidance on how to estimate emissions during SSM if this requirement is retained in the final rule.

Several commenters stated that because there should be no deviation from the rule when the work practices of the rule are followed, there are no excess emissions, and the reported emissions are not relevant to determining compliance. Commenters are concerned that if estimated NMOC emissions are reported, states will deem the reported emissions to be "excess emissions," which could be treated as a serious violation. Therefore, reporting these emissions poses the risk of state or citizen suits for enforcement, even when a landfill is following all requirements of the rule.

Other Comments. Several commenters added that because SSM provisions apply to numerical emission limitations and a numerical limitation applies only to the control device (not the collection devices), commenters stated that SSM provisions should address only operation of the control devices during periods when LFG is routed from the collection system.

Several commenters indicated that EPA must retain an allowance of 5 days/1 hour for downtime events so that states do not file enforcement actions for downtime events that are shorter than the previously allowed 5 days/1-hour allowance. These commenters also asked the EPA to clarify that the 1-hour allowance for shutting vents allows for free venting for 1 hour such that venting during this time period does not constitute "excess emissions" that can be deemed a serious violation.

Response: The EPA recognizes that landfills are not typical affected sources that can be started up or shut down. Landfill emissions are produced by a continuous biological process that cannot be stopped or shut down. The EPA also recognizes that the primary concern is with malfunction of the LFG collection and control system and associated monitoring equipment, not with the startup, shutdown, or malfunction of the entire source. The EPA received extensive comments on the proposed requirements applicable to landfills during SSM events, as summarized above. Consistent with the recent Court decision that vacated the exemption in 40 CFR 63.6(f)(1) and (h)(1) for SSM (*Sierra Club* v. *EPA,* 551 F.3d 1019), the EPA has established standards in this rule that apply at all times.

The general provisions in 40 CFR part 60 provide that emissions in excess of the level of the applicable emissions limit during periods of SSM shall not be considered a violation of the applicable emission limit *unless otherwise specified in the applicable standard* (see 40 CFR 60.8(c)) (emphasis added). As reflected in the italicized language, an individual subpart can supersede this provision.

The EPA is finalizing a requirement in 40 CFR 60.465(e) whereby the standards apply at all times, including periods of SSM. However, the final rule incorporates a work practice during periods of SSM. During these SSM events, owners or operators must shut down the gas mover system and close within 1 hour all valves in the GCCS contributing to venting of the gas to the atmosphere. The landfill owner or operator must also keep records and submit reports of all periods when the collection and control device is not operating. The EPA, however, is not reinstating the 5-day exemption for SSM periods because the provision provides an exemption from compliance with the standard during SSM periods, which the EPA does not have the authority to do under the reasoning of the Sierra Club decision.

E. Other Corrections and Clarifications

1. Test Methods

In the 2014 proposed NSPS, the EPA did not include EPA Method 18 or EPA Method 25A. In the 2015 proposed Emission Guidelines, the EPA proposed to include Method 25A based on public comments received on the 2014 proposed NSPS and the EPA's recognition that the use of Method 25A is necessary for measuring outlet concentrations less than 50 ppm NMOC. However, the EPA did not propose to include Method 18 (80 FR 52112) because the EPA had determined that Method 18 was not appropriate or cost effective for testing the large number of NMOCs found in landfill samples. Specifically, 40 target analytes are listed in the current landfills section of AP–42 and 160 analytes are listed in the draft landfills section AP–42. The EPA determined that the extensive quality assurance required by the method makes the method technically and economically prohibitive for all the potential target analytes.

Comment: Commenters requested that the EPA retain both Method 18 and 25A in the final rule and cited a number of reasons that the EPA should retain them, including both technical and legal reasons. Commenters stated that landfill owners or operators have relied on these test methods to demonstrate compliance for performance testing of enclosed flares as a part of EPA policy for over a decade under 40 CFR 60.764 [60.754]. One commenter emphasized the importance of Method 25A because its use is required for many sources with an outlet concentration of less than 50 ppmv NMOC as carbon.

The commenters noted that the majority of LFG destruction devices show NMOC concentrations below 50 ppmv as carbon. Due to issues with Methods 25/25C in measuring NMOC content under this level, commenters observed that the proposed NSPS rule change effectively removes the ability to accurately measure compliance with the 20 ppmv outlet standard for a large class of enclosed combustors. Commenter believes that Method 25A is the superior testing methodology for certain circumstances and is more commonly used in practice. Commenters cited limitations of Method 25, including sensitivity of the test method to water and carbon dioxide and the inability to measure NMOC content below 50 ppmv as carbon.

Commenters also contended that the EPA did not provide any justification for removing these methods. Commenters stated that the EPA did not provide any factual data, methodology, or any legal or policy justification for its proposed exclusion of Method 25A or Method 18; thus commenters claimed that the EPA did not satisfy the notice-and-comment requirements of the CAA.

Response: After considering public comments, the EPA is including both EPA Method 25A and Method 18 (on a limited basis, *i.e.,* compound specific) in the final landfills regulations (40 CFR part 60, subparts Cf and XXX).

After reviewing the comments received on the NSPS for new landfills proposed on July 17, 2014, the EPA recognizes that the use of Method 25A is necessary for measuring outlet concentrations less than 50 ppm NMOC. EPA Method 25A determines total gaseous organic concentration of vapor (total organic compounds). Because the rule regulates NMOC, EPA Method 18 or Method 3C are needed to determine the concentration of methane in the gas stream. Method 25A, in conjunction with Methods 18 or 3C (for methane), can be used to determine NMOC for the outlet concentrations less than 50 ppm NMOC as carbon. Note that Method 25A FIDs are insensitive to formaldehyde.

While Method 18 may be used in conjunction with Method 25A for methane or specific compounds of interest, there are limitations on the number of analytes that can be reasonably quantified in measuring the sum of all NMOCs. With the possibility of 40 target analytes listed in the current landfill section of AP–42 (160 analytes in the draft landfill AP–42), Method 18 is not an appropriate or cost effective method to test all NMOCs found in landfill samples. The extensive QA required by the method makes the method technically and economically prohibitive for all the potential target analytes.

2. Tier 2 Sampling Procedure

The EPA continues to believe that the number of samples required per hectare is appropriate for Tier 2. As described in 40 CFR 60.764, the EPA is reaffirming that the two samples are required per hectare and if additional samples are taken, all samples must be used in determining the site-specific NMOC concentration. Landfill owners or operators must also ensure that the probes are evenly distributed over the landfill surface. The EPA explored a number of methods, including a statistical approach, when establishing requirements for the number and location of Tier 2 samples for the original rule. Public commenters raised significant concerns with approaches based on equations. As such, the EPA determined that a simplified method (2 samples per hectare) was best and received no public comments to the contrary.

3. Non-degradable Waste

The EPA is reaffirming that all the waste must be included in calculating the design capacity. Non-degradable waste cannot be subtracted from the permitted landfill design capacity. However, non-degradable waste can be subtracted from the mass of solid waste when calculating the NMOC emission rate because such waste would not produce NMOC emissions. Non-degradable waste is defined as waste that does not break down through chemical or microbiological activity. Examples include concrete, municipal waste combustor ash, and metals. Petroleum contaminated soils (PCS) and paper mill sludges likely contain organics that could be emitted as MSW LFG emissions. Therefore, emissions from PCS and sludges would need to be accounted for in the emission estimate only. The EPA is also reaffirming that documentation of the nature and amount of non-degradable waste needs to be maintained when subtracting the mass of non-degradable waste from the total mass of waste for NMOC emission rate calculations.

VII. Impacts of This Final Rule

For most Emission Guidelines, the EPA analyzes the impacts in the year the standard is implemented. If the Emission Guidelines are promulgated and published in August 2016, then the implementation year would be 2017 based on the following: states have 9 months to prepare a state plan implementing the guidelines (May 2017); the EPA has 4 months to review the plan (September 2017); and if necessary, the state has an additional 2 months to revise and submit a corrected plan based on any comments from the EPA (November 2017). Concurrently, the EPA must promulgate a federal plan within 6 months after the state plan is due, consistent with 40 CFR 60.27(d), or November 2017. Thus, the EPA-approved state plan and updated federal plan implementing the Emission Guidelines are expected to become effective in November 2017. Although late 2017 is the estimated implementation year, the reporting and control timeframe allows 3 months to submit the first NMOC emission report and then 30 months after reporting the NMOC emission rate results before the GCCS is required to be installed. Therefore, the first year that affected landfills could have controls installed under the final rule will be late 2020.

Because of the necessarily lengthy implementation process, the EPA is assessing impacts in year 2025 as a representative year for the landfills Emission Guidelines. While the year 2025 differs somewhat from the expected first year of implementation for the Emission Guidelines (year 2020), the number of existing landfills required to install controls under the final rule in year 2025 is the same as those estimated to control in the estimated first year of implementation. Further, year 2025 represents a year in which several of the landfills subject to control requirements will have had to expand their GCCS according the expansion lag times set forth in 40 CFR part 60, subpart Cf.

The landfills dataset used for estimating the impacts of the Emission Guidelines is discussed in detail in the August 27, 2015 proposed revisions to the Emission Guidelines (80 FR 52116–52117). The EPA made several significant edits to the dataset since the August 2015 proposal, based on public comments received; new data made available from the landfills reporting 2014 emissions to 40 CFR part 98, subpart HH, of GHGRP; and consultations with EPA regional offices, and state and local authorities to identify additional landfills expected to undergo a modification within the next 5 years. After incorporating all of the updates to the inventory and removing the landfills expected to modify, the revised dataset to analyze the impacts of the final rule now has 1,851 existing landfills that accepted waste after

1987[49] and opened prior to 2014.[50] A detailed discussion of updates made to the landfill dataset is in the docketed memorandum, "Summary of Updated Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations, 2016."

The methodology used for estimating the impacts of the Emission Guidelines is discussed in detail in the August 27, 2015 proposed revisions to the Emission Guidelines (80 FR 52116–52117). The EPA made several significant edits to the methodology since the August 2015 proposal based on public comments and comments on a separate peer review of the EPA Landfill Gas Energy Cost (LFGcost) model.[51] Notably, the EPA adjusted its assumption of gas collection efficiency to an average of 85 percent. The impacts analysis at the proposal did not apply a collection efficiency assumption. However, in consideration of public comments received and EPA assumptions in subpart HH of the GHGRP, and analyses performed for marginal abatement cost curves, the EPA has included an 85 percent average gas collection efficiency factor to reflect a more realistic indicator of GCCS performance.[52] In addition, Chapter 2.4 of the EPA AP–42 for MSW landfills cites a range of collection efficiencies for LFG between 60 and 85 percent. The EPA also adjusted the electricity purchase price and anticipated revenue estimates using forecasted commercial retail electricity rate data and forecasted electricity generation price data for different Energy Information Administration (EIA) Electricity Market Module regions.[53] [54]

A detailed discussion of the methodology and equations used to estimate the impacts of the final rule are available in the docketed memorandum "Revised Methodology for Estimating Cost and Emission Impacts of MSW Landfill Regulations, 2016." The results of applying this methodology to the population of existing landfills potentially subject to the final rule are in the docketed memorandum "Revised Cost and Emission Impacts Resulting from the Landfill EG Review, 2016." Table 2 of this preamble summarizes the emission reductions and costs associated with the final rule.

TABLE 2—EMISSION REDUCTIONS AND COSTS FOR FINAL RULE IN YEAR 2025 AT EXISTING LANDFILLS (2012$)

Option	Landfills affected by final rule[a]	Number of landfills affected[b]	Number of landfills controlling	Number of landfills reporting but not controlling[c]	Annual Net cost (million $2012)	Annual NMOC reductions (Mg\yr)	Annual methane reductions (million Mg\yr)	Annual CO_2e reductions (million mt\yr)[d]	NMOC Cost effectiveness ($\Mg)	Methane cost effectiveness ($\Mg)	CO_2e Cost effectiveness ($\mt)[d]
Baseline (2.5 million Mg design capacity\50 Mg\yr NMOC).	All	1014	638	177	642	58,770	9.3	231	10,900	69.3	2.8
Incremental values vs. the Baseline											
Final Option (2.5 million Mg design capacity/34 Mg/yr NMOC).	Open	0	93	−100	[e]54.1	1,810	0.285	7.1	29,900	190	7.6

[a] The final option in this table shows the impacts of reducing the NMOC emission threshold to 34 Mg/yr on open landfills only, and retaining the NMOC threshold of 50 Mg/yr for the closed landfill subcategory.

[b] Landfills are affected by the landfills Emission Guidelines based on design capacity. Once affected, they calculate and report emissions until they exceed the NMOC threshold, which triggers control requirements. Since we are not changing the size threshold, there are no incremental landfills affected.

[c] Since the number of landfills affected remains the same as the baseline, the number of landfills reporting NMOC (but not controlling) decreases since more landfills will control emissions under the final rule.

[d] Results do not include secondary CO_2 impacts.

[e] The annualized net cost for the final Emission Guidelines is estimated to be $54.1 million (2012$) in 2025, when using a 7 percent discount rate. The annualized costs represent the costs compared to no changes to the current Emission Guidelines (*i.e.*, baseline) and include $92.6 million to install and operate a GCCS, as well as $0.76 million to complete the corresponding testing and monitoring. These control costs are offset by $39.3 million in revenue from electricity sales, which is incorporated into the net control costs for certain landfills that are expected to generate revenue by using the LFG to produce electricity.

A. What are the air quality impacts?

The EPA estimates that the final rule will achieve nearly an additional 3 percent reduction in NMOC from existing landfills, or 1,810 Mg/yr, when compared to the baseline, as shown in Table 2 of this preamble. The final rule would also achieve 0.285 million Mg of methane reductions (7.1 million mtCO2e) in 2025. These reductions are achieved by reducing the NMOC threshold from 50 Mg/yr to 34 Mg/yr open landfills.

B. What are the water quality and solid waste impacts?

Leachate is the liquid that passes through the landfilled waste and strips contaminants from the waste as the leachate percolates. Precipitation generates the vast majority of leachate volume. Installation of a gas collection system will generate additional liquid, in the form of gas condensate, and it will be routed to the same leachate treatment mechanisms in place for controlling precipitation-based leachate. Collected leachate can be treated on site or transported off site to wastewater treatment facilities. Some landfills have received permits allowing for recirculation of leachate in the landfill, which may further reduce the volume of leachate requiring treatment. Additional liquid generated from gas condensate is not expected to be significant and insufficient data are available to estimate the increases in leachate resulting from expanded gas collection and control requirements.

The additional gas collection and control components required by this final rule have finite lifetimes (approximately 15 years) and these pipes and wells will be capped or disposed of at the end of their useful life. There are insufficient data to quantify the solid waste resulting from disposal of this control infrastructure.

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[49] November 8, 1987, is the date on which permit programs were established under the Hazardous and Solid Waste Amendments of RCRA. This date was also selected as the regulatory cutoff in the Emission Guidelines for landfills no longer receiving wastes because the EPA judged states would be able to identify active facilities as of this date. The data available to EPA include an open year without the month and so the analysis uses a cutoff year of 1988 for landfill closure year.

[50] July 17, 2014, is the proposal date of the revised NSPS for MSW landfills in 40 CFR part 60, subpart XXX. A landfill opening or commencing construction on its modification after this date would become subject to this new subpart and would not be subject to the revised Emission Guidelines. The EPA cannot predict the exact month a model landfill will open so the analysis uses a cutoff year of 2014.

[51] See the docketed 2016 RIA for additional discussion of changes made on the methodology for estimating impacts as a result of the LFGcost peer review.

[52] USEPA. Global Mitigation of Non-CO_2 Greenhouse Gases: 2010–2030. EPA–430–R–13–011.

[53] See the docketed 2016 RIA for additional discussion of changes made to electricity pricing assumptions.

[54] To map existing landfill sites to EIA's Electricity Market Module regions, the sites' geospatial coordinates were overlayed on a map of the EMM regions. The AEO Electricity Market Module regions are commensurate with the eGRID2012 primary regions for which a shapefile is available at *https://www.epa.gov/energy/download-egrid2012-shapefiles.* For expected new landfills within a state the specific location is unknown, therefore the landfill is located at the state's centroid for purposes of mapping the site to an EMM region.

Further, the incremental costs of control for the final rule of $54.1 million in 2025 (7% discount rate, 2012$) are not expected to have an appreciable market effect on the waste disposal costs, tipping fees, or the amount of solid waste disposed in landfills because the costs for gas collection represent a small portion of the overall costs to design, construct, and operate a landfill. The handling of waste by the private companies in the industry was estimated to generate $55 billion of revenue in 2011, of which landfilling contributed $13 billion, while a more recent estimate shows the U.S. non-hazardous solid waste services industry generated about $60 billion in annual revenues in 2015. These revenue estimates do not include activity related to publicly owned landfills. For more information, see the "Regulatory Impact Analysis for the Final Revisions to the Emission Guidelines for Existing Sources and the New Source Performance Standards in the Municipal Solid Waste Landfills Sector, 2016" (hereafter "2016 RIA") included in the docket. There also is insufficient information to quantify the effect increased gas control costs might have on the amount of solid waste disposed in landfills versus other disposal mechanisms such as recycling, waste-to-energy, or composting. Note that elements of this final rule—notably lowering the NMOC threshold to 34 Mg/yr—provide additional incentives to separate waste.

C. What are the secondary air impacts?

Secondary air impacts may include grid emissions from purchasing electricity to operate the GCCS components, by-product emissions from combustion of LFG in flares or energy recovery devices, and offsets to conventional grid emissions from new LFG energy supply.

The secondary air impacts are presented as net impacts, considering both the energy demand and energy supply resulting from the final rule. The methodology used to prepare the estimated secondary impacts for this preamble is discussed in the docketed memorandum "Revised Estimates of Secondary Impacts of the Landfills Emission Guidelines Review, 2016."

While we do expect NOx and sulfur dioxide (SO_2) emission changes as a result of these guidelines, we expect these changes to be small and these changes have not been estimated. The net impacts were computed for CO_2e. After considering the offsets from LFG electricity, the impacts of the final rule are expected to reduce CO_2 emissions by 277,000 metric tons per year. These CO_2 emission reductions are in addition to the methane emission reductions achieved from the direct destruction of methane in flares or engines presented in Table 2 of this preamble.

D. What are the energy impacts?

The final rule is expected to have a very minimal impact on energy supply and consumption. Active gas collection systems require energy to operate the blowers and pumps and the final rule will increase the volume of LFG collected. When the least cost control is a flare, energy may be purchased from the grid to operate the blowers of the LFG collection system. However, when the least cost control option is an engine, the engine may provide this energy to the gas control system and then sell the excess to the grid. Considering the balance of energy generated and demanded from the estimated least cost controls, the final rule is estimated to supply 0.51 million megawatt hours (MWh) of additional renewable LFG energy per year, which will reduce the need for conventional fossil-based energy sources.

E. What are the cost impacts?

To meet the final rule emission thresholds, a landfill is expected to install the least cost control for combusting the LFG. The cost estimates evaluated each landfill to determine whether a gas collection and flare or a gas collection with flare and engine equipment would be least cost, after considering local power buyback rates and whether the quantity of LFG was sufficient to generate electricity. The control costs include the costs to install and operate gas collection infrastructure such as wells, header pipes, blowers, and an enclosed flare. For landfills for which the least cost control option is an engine, the costs also include the cost to install and operate one or more reciprocating internal combustion engines to convert the LFG into electricity. Revenue from electricity sales was incorporated into the net control costs using forecasted electricity generation price data from EIA Electricity Market Module regions. Testing and monitoring costs at controlled landfills include the cost to conduct initial performance tests on the enclosed flare or engine control equipment, quarterly surface monitoring, continuous combustion monitoring, and monthly wellhead monitoring. At uncontrolled landfills, the testing and monitoring costs include calculation and reporting of NMOC emission rates.

The nationwide incremental annualized net cost for the final rule is $54.1 million, when using a 7 percent discount rate and 2012$. The annualized net costs of $54.1 million represent the costs compared to no changes to the current Emission Guidelines (*i.e.,* baseline) and include $92.6 million to install and operate a GCCS, as well as $0.76 million to complete the corresponding testing and monitoring. These control costs are offset by $39.3 million in revenue from electricity sales, which is incorporated into the net control costs for certain landfills that are expected to generate revenue by using the LFG to produce electricity.

F. What are the economic impacts?

Because of the relatively low net cost of the final rule compared to the overall size of the MSW industry, as well as the lack of appropriate economic parameters or model, the EPA is unable to estimate the impacts on the supply and demand for MSW landfill services. However, because of the relatively low incremental costs, the EPA does not believe the final rule would lead to substantial changes in supply and demand for landfill services or waste disposal costs, tipping fees, or the amount of waste disposed in landfills. Hence, the overall economic impact of the final rule should be minimal on the affected industries and their consumers.

G. What are the benefits?

This final action is expected to result in significant emissions reductions from existing MSW landfills. By lowering the NMOC emissions threshold to 34 Mg/yr, these final guidelines would achieve reductions of more than 1,810 Mg/yr NMOC and 285,000 metric tons of methane (7.1 million $mtCO_2e$). In addition, the guidelines are expected to result in the net reduction of 277,000 metric tons CO_2, due to reduced demand for electricity from the grid as landfills generate electricity from LFG.

This rule is expected to result in significant public health and welfare benefits resulting from the climate benefits due to anticipated methane and CO_2 reductions. Methane is a potent GHG that, once emitted into the atmosphere, absorbs terrestrial infrared radiation that contributes to increased global warming and continuing climate change. Methane reacts in the atmosphere to form tropospheric ozone and stratospheric water vapor, both of which also contribute to global warming. When accounting for the impacts of changing methane, tropospheric ozone, and stratospheric water vapor concentrations, the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report (2013) found that historical emissions of methane accounted for about 30 percent of the total current warming influence (radiative forcing) due to historical emissions of greenhouse gases. Methane is therefore a major contributor to the climate change impacts described in section III.B of this preamble. The remainder of this section discusses the methane reductions expected from this proposed rule and the associated monetized benefits.

As discussed in section IV of this preamble, this rulemaking includes several changes to the Emission Guidelines for MSW landfills that will decrease methane emissions from this sector. Specifically, the final emission guideline changes are expected to reduce methane emissions from all landfills in 2025 by about 285,000 metric tons of methane.

We calculated the global social benefits of these methane emission reductions using estimates of SC–CH_4, a metric that estimates the monetary value of impacts associated with marginal changes in methane emissions in a given year. The SC–CH_4 estimates applied in this analysis were developed by Marten et al. (2014) and are discussed in greater detail below.

A similar metric, the social cost of CO_2 (SC–CO_2), provides important context for understanding the Marten et al. SC–CH_4 estimates.[55] The SC–CO_2 is a metric that estimates the monetary value of impacts associated with marginal changes in CO_2 emissions in a given year. It includes a wide range of anticipated climate impacts, such as net changes in agricultural productivity and human health, property damage from increased flood risk, and changes in energy system costs, such as reduced costs for heating and increased costs for air conditioning. Estimates of the SC–CO_2 have been used by the EPA and other federal agencies to value the impacts of CO_2 emissions changes in benefit cost analysis for GHG-related rulemakings since 2008.

The SC–CO_2 estimates were developed over many years, using the best science available, and with input from the public. Specifically, an interagency working group (IWG) that included the EPA and other executive branch agencies and offices used three integrated assessment models (IAMs) to develop the SC–CO_2 estimates and recommended four global values for use in regulatory analyses. The SC–CO_2 estimates were first released in February 2010 and updated in 2013 using new versions of each IAM.

The 2010 SC–CO_2 Technical Support Document (TSD) provides a complete discussion of the methods used to develop these estimates and the current SC–CO_2 TSD presents and discusses the 2013 update (including recent minor technical corrections to the estimates).[56]

The SC–CO_2 TSDs discuss a number of limitations to the SC–CO_2 analysis, including the incomplete way in which the IAMs capture catastrophic and non-catastrophic impacts, their incomplete treatment of adaptation and technological change, uncertainty in the extrapolation of damages to high temperatures, and assumptions regarding risk aversion. Currently, IAMs do not assign value to all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature due to a lack of precise information on the nature of damages and because the science incorporated into these models understandably lags behind the most recent research. Nonetheless, these estimates and the discussion of their limitations represent the best available information about the social benefits of CO_2 reductions to inform benefit-cost analysis. The EPA and other agencies continue to engage in research on modeling and valuation of climate impacts with the goal to improve these estimates, and continue to consider feedback on the SC–CO_2 estimates from stakeholders through a range of channels, including public comments received on Agency rulemakings, a separate Office of Management and Budget (OMB) public comment solicitation, and through regular interactions with stakeholders and research analysts implementing the SC–CO_2 methodology. See the docketed 2016 RIA for additional details.

A challenge particularly relevant to this rule is that the IWG did not estimate the social costs of non-CO_2 GHG emissions at the time the SC–CO_2 estimates were developed. In addition, the directly modeled estimates of the social costs of non-CO_2 GHG emissions previously found in the published literature were few in number and varied considerably in terms of the models and input assumptions they employed[57] (EPA 2012). In the past, the EPA has sought to understand the potential importance of monetizing non-CO_2 GHG emissions changes through sensitivity analysis using an estimate of the GWP of CH_4 to convert emission impacts to CO_2 equivalents, which can then be valued using the SC–CO_2 estimates. This approach approximates the SC–CH_4 using estimates of the SC–CO_2 and the GWP of methane.

The published literature documents a variety of reasons that directly modeled estimates of SC–CH_4 are an analytical improvement over the estimates from the GWP approximation approach. Specifically, several recent studies found that GWP-weighted benefit estimates for CH_4 are likely to be lower than the estimates derived using directly modeled social cost estimates for these gases.[58] The GWP reflects only the relative integrated radiative forcing of a gas over 100 years in comparison to CO_2. The directly modeled social cost estimates differ from the GWP-scaled SC–CO_2 because the relative differences in timing and magnitude of the warming between gases are explicitly modeled, the non-linear effects of temperature change on economic damages are included, and rather than treating all impacts over a hundred years equally, the modeled damages over the time horizon considered (300 years in this case) are discounted to present value terms. A detailed discussion of the limitations of the GWP approach can be found in the 2016 RIA.

In general, the commenters on previous rulemakings strongly encouraged the EPA to incorporate the monetized value of non-CO_2 GHG impacts into the benefit cost analysis. However, they noted the challenges associated with the GWP approach, as discussed above, and encouraged the use of directly modeled estimates of the SC–CH_4 to overcome those challenges.

Since then, a paper by Marten et al. (2014) has provided the first set of published SC–CH_4 estimates in the peer-reviewed literature that are consistent with the modeling assumptions underlying the SC–CO_2 estimates.[59] [60] Specifically, the estimation approach of Marten et al. used the same set of three IAMs, five socioeconomic-emissions scenarios, equilibrium climate sensitivity distribution, three constant discount rates, and aggregation approach used by the IWG to develop the SC–CO_2 estimates.

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[55] Previous analyses have commonly referred to the social cost of carbon dioxide emissions as the social cost of carbon or SCC. To more easily facilitate the inclusion of non-CO_2 GHGs in the discussion and analysis the more specific SC–CO_2 nomenclature is used to refer to the social cost of CO_2 emissions.

[56] Both the 2010 SC–CO_2 TSD and the current TSD are available at: *https://www.whitehouse.gov/omb/oira/social-cost-of-carbon.*

[57] U.S. EPA. 2012. Regulatory Impact Analysis Final New Source Performance Standards and Amendments to the National Emissions Standards for Hazardous Air Pollutants for the Oil and Natural Gas Industry. Office of Air Quality Planning and Standards, Health and Environmental Impacts Division. April. *http://www.epa.gov/ttn/ecas/regdata/RIAs/oil_natural_gas_final_neshap_nsps_ria.pdf.* Accessed April 7, 2016.

[58] See Waldhoff et al. (2011); Marten and Newbold (2012); and Marten et al. (2014).

The SC–CH_4 estimates from Marten, et al. (2014) are presented in Table 3 of this preamble. More detailed discussion of the methodology, results, and a comparison to other published estimates can be found in the 2016 RIA and in Marten, et al.

TABLE 3—SOCIAL COST OF CH_4, 2012–2050 [a]

[In 2012$ per metric ton (Source: Marten et al., 2014 [b])]

Year	SC–CH_4			
	5% Average	3% Average	2.5% Average	3% 95th percentile
2012	$430	$1000	$1400	$2800
2015	490	1100	1500	3000
2020	580	1300	1700	3500
2025	700	1500	1900	4000
2030	820	1700	2200	4500
2035	970	1900	2500	5300
2040	1100	2200	2800	5900
2045	1300	2500	3000	6600
2050	1400	2700	3300	7200

[a] The values are emissions-year specific. Estimates using several discount rates are included because the literature shows that estimates of the SC–CO_2 (and SC–CH_4) are sensitive to assumptions about the discount rate, and because no consensus exists on the appropriate rate to use in an intergenerational context (where costs and benefits are incurred by different generations). The fourth value is the 95th percentile of the SC–CH_4 estimates across three models using a 3 percent discount rate. It is included to represent higher-than-expected impacts from temperature change further out in the tails of the SC–CH_4 distribution.

[b] The estimates in this table have been adjusted to reflect recent minor technical corrections to the SC–CO_2 estimates. See the Corrigendum to Marten et al. (2014), *http://www.tandfonline.com/doi/abs/10.1080/14693062.2015.1070550.*

The application of these directly modeled SC–CH_4 estimates from Marten et al. (2014) in a benefit-cost analysis of a regulatory action is analogous to the use of the SC–CO_2 estimates. In addition, the limitations for the SC–CO_2 estimates discussed above likewise apply to the SC–CH_4 estimates, given the consistency in the methodology.

In early 2015, the EPA conducted a peer review of the application of the Marten, et al. (2014) non-CO_2 social cost estimates in regulatory analysis and received responses that supported this application. See the 2016 RIA for a detailed discussion.

The EPA also carefully considered the full range of public comments and associated technical issues on the Marten et al. SC–CH_4 estimates received through this rulemaking. The comments addressed the technical details of the SC–CO2 estimates and the Marten et al. SC–CH4 estimates as well as their application to this rulemaking analysis. One comment letter also provided constructive recommendations to improve the SC–CO2 and SC–CH4 estimates in the future. Based on the evaluation of the public comments on this rulemaking, the favorable peer review of the Marten et al. application, and past comments urging the EPA to value non-CO_2 GHG impacts in its rulemakings, the agency has concluded that the estimates represent the best scientific information on the impacts of climate change available in a form appropriate for incorporating the damages from incremental CH_4 emissions changes into regulatory analysis. The EPA has included those benefits in the main benefits analysis. See the EPA's Response to Comments document for the complete response to comments received on the SC–CH_4 as part of this rulemaking.

The methane benefits based on Marten et al. (2014) are presented for the year 2025. Applying this approach to the methane reductions estimated for these guidelines, the 2025 methane benefits vary by discount rate and range from about $200 million to approximately $1.1 billion; the mean SC–CH_4 at the 3-percent discount rate results in an estimate of about $430 million in 2025, as presented in Table 4 of this preamble.

TABLE 4—ESTIMATED GLOBAL BENEFITS OF CH_4 REDUCTIONS IN 2025

[In millions, 2012$]

Million metric tons CH_4	Discount rate and statistic			
	5% Average	3% Average	2.5% Average	3% 95th percentile
0.285	$200	$430	$550	$1,100

The vast majority of this action's climate-related benefits are associated with methane reductions. Additional climate-related benefits are expected from the guidelines' secondary air impacts, specifically, a net reduction in CO_2 emissions. Monetizing the net CO_2 reductions with the SC–CO_2 estimates described in this section yields benefits of $14 million in the year 2025 (average SC–CO_2, 3 percent discount rate, 2012$). Monetized climate benefits associated with reductions in methane and secondary CO2 emissions are approximately $440 million in 2025 (2012$), based on the average SC–CH_4 at a 3 percent discount rate and the average SC–CO2 at a 3 percent discount rate. See the 2016 RIA for more details.

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[59] Marten et al. (2014) also provided the first set of SC–N_2O estimates that are consistent with the assumptions underlying the IWG SC–CO_2 estimates.

[60] Marten, A. L., E. A. Kopits, C. W. Griffiths, S. C. Newbold & A. Wolverton (2014). Incremental CH_4 and N_2O mitigation benefits consistent with the U.S. Government's SC–CO_2 estimates, Climate Policy, DOI: 10.1080/14693062.2014.912981.

In addition to the limitation discussed above, and the referenced documents, there are additional impacts of individual GHGs that are not currently captured in the IAMs used in the directly modeled approach of Marten et al. (2014), and therefore not quantified for the rule. For example, the NMOC portion of LFG can contain a variety of air pollutants, including VOC and various organic HAP. VOC emissions are precursors to both $PM_{2.5}$ and ozone formation, while methane is a GHG and a precursor to global ozone formation. These pollutants are associated with substantial health effects, welfare effects, and climate effects, which are discussed in section III.B of this preamble. The ozone generated by methane has important non-climate impacts on agriculture, ecosystems, and human health. The 2016 RIA describes the specific impacts of methane as an ozone precursor in more detail and discusses studies that have estimated monetized benefits of these methane generated ozone effects. The EPA continues to monitor developments in this area of research.

Finally, these final Emission Guidelines will yield benefits from reductions in VOC and HAP emissions and from reductions in methane as a precursor to global background concentrations of tropospheric ozone. With the data available, we are not able to provide quantified health benefit estimates for the reduction in exposure to HAP, ozone, and $PM_{2.5}$ for this rule. This is not to imply that there are no benefits of the rules; rather, it is a reflection of the difficulties in modeling the direct and indirect impacts of the reductions in emissions for this sector with the data currently available.[61] In addition to health improvements, there will be improvements in visibility effects, ecosystem effects, and climate effects.

Although we do not have sufficient information or modeling available to provide quantitative estimates of the health benefits associated with HAP, ozone, and $PM_{2.5}$ reductions, we include a qualitative assessment of the public health effects associated with exposure to HAP, ozone, and $PM_{2.5}$ in the 2016 RIA for this rule. These qualitative impact assessments are briefly summarized in section III.B of this preamble, but for more detailed information, please refer to the 2016 RIA, which is available in the docket.

Based on the monetized benefits and costs of the final emission guidelines, the annual net benefits of the rule are estimated to be $390 million ($2012) in 2025 based on the average SC–CH4 at a 3 percent discount rate and costs at a 7 percent discount rate.

VIII. Statutory and Executive Order Reviews

Additional information about these statues and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is an economically significant regulatory action that was submitted to OMB for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an economic analysis of the potential costs and benefits associated with the proposed Emission Guidelines. The analysis is documented in the 2016 RIA, which is available in docket EPA–HQ–OAR–2014–0451 and is briefly summarized in section VII of this preamble.

B. Paperwork Reduction Act (PRA)

OMB has approved the information collection activities contained in this rule under the PRA and has assigned OMB control number 2060–NEW. The Information Collection Request (ICR) document that the EPA prepared for the final Emission Guidelines has been assigned EPA ICR number 2522.02. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information required to be collected is necessary to identify the regulated entities subject to the final rule and to ensure their compliance with the final Emission Guidelines. The recordkeeping and reporting requirements are mandatory and are being established under authority of CAA section 114 (42 U.S.C. 7414). All information other than emissions data submitted as part of a report to the agency for which a claim of confidentiality is made will be safeguarded according to CAA section 114(c) and the EPA's implementing regulations at 40 CFR part 2, subpart B.

Respondents/affected entities: MSW landfills that accepted waste after November 8, 1987, and commenced construction, reconstruction, or modification on or before July 17, 2014.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart Cf).

Estimated number of respondents: 1,192 MSW landfills.

Frequency of response: Initially, occasionally, and annually.

Total estimated burden: 679,668 hours (per year) for the responding facilities and 17,829 hours (per year) for the agency. These are estimates for the average annual burden for the first 3 years after the rule is final. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $45,225,362 (per year), which includes annualized capital or operation and maintenance costs, for the responding facilities and 1,161,840 (per year) for the agency. These are estimates for the average annual cost for the first 3 years after the rule is final.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Specifically, Emission Guidelines established under CAA section 111(d) do not impose any requirements on regulated entities and, thus, will not have a significant economic impact upon a substantial number of small entities. After Emission Guidelines are promulgated, states and U.S. territories establish standards on existing sources, and it is those state requirements that could potentially impact small entities.

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[61] Previous studies have estimated the monetized benefits-per-ton of reducing VOC emissions associated with the effect that those emissions have on ambient $PM_{2.5}$ levels and the health effects associated with $PM_{2.5}$ exposure (Fann, Fulcher, and Hubbell, 2009). While these ranges of benefit-per-ton estimates can provide useful context, the geographic distribution of VOC emissions from the MSW landfills sector are not consistent with emissions modeled in Fann, Fulcher, and Hubbell (2009). In addition, the benefit-per-ton estimates for VOC emission reductions in that study are derived from total VOC emissions across all sectors. Coupled with the larger uncertainties about the relationship between VOC emissions and $PM_{2.5}$ and the highly localized nature of air quality responses associated with HAP and VOC reductions, these factors lead us to conclude that the available VOC benefit-per-ton estimates are not appropriate to calculate monetized benefits of these rules, even as a bounding exercise.

Our analysis here is consistent with the analysis of the analogous situation arising when the EPA establishes National Ambient Air Quality Standards (NAAQS), which do not impose any requirements on regulated entities. As here, any impact of a NAAQS on small entities would only arise when states take subsequent action to maintain and/or achieve the NAAQS through their state implementation plans. See *American Trucking Assoc.* v. *EPA,* 175 F.3d 1029, 1043–45 (D.C. Cir. 1999). (NAAQS do not have significant impacts upon small entities because NAAQS themselves impose no regulations upon small entities.)

Nevertheless, the EPA is aware that there is substantial interest in the rule among small entities. The EPA conducted stakeholder outreach as detailed in sections XI.C and XI.E of the preamble to the proposed Standards of Performance for MSW Landfills (79 FR 41828–41829; July 17, 2014) and in sections VIII.C and VIII.E of this preamble. The EPA convened a Small Business Advocacy Review (SBAR) Panel in 2013 for the landfills rulemaking. The EPA originally planned a review of the Emission Guidelines and NSPS in one action, but the actions were subsequently divided into separate rulemakings. The SBAR Panel evaluated the assembled materials and small-entity comments on issues related to the rule's potential effects and significant alternative regulatory approaches. A copy of the "Summary of Small Entity Outreach" is available in the rulemaking docket EPA–HQ–OAR–2014–0451. While formulating the provisions of the rule, the EPA considered the input provided over the course of the stakeholder outreach as well as the input provided in the many public comments, and we have incorporated many of the suggestions in this final rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538. The final Emission Guidelines apply to landfills that were constructed, modified, or reconstructed after November 8, 1987, and that commenced construction, reconstruction, or modification on or before July 17, 2014. Impacts resulting from the final Emission Guidelines are below the applicable threshold.

We note however, that the final Emission Guidelines may significantly or uniquely affect small governments because small governments operate landfills. The EPA consulted with small governments concerning the regulatory requirements that might significantly or uniquely affect them. In developing this rule, the EPA consulted with small governments pursuant to a plan established under section 203 of the UMRA to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments. The EPA also held meetings as discussed in section VIII.E of this preamble under Federalism consultations.

E. Executive Order 13132: Federalism

The EPA has concluded that the final Emission Guidelines may have federalism implications, because the rule imposes substantial direct compliance costs on state or local governments and the federal government will not provide the funds necessary to pay those costs.

The EPA provides the following federalism summary impact statement. The EPA consulted with state and local officials, including their representative national organizations, early in the process of developing the proposed action to permit them to have meaningful and timely input into its development. In developing the regulatory options reflected in the proposed rule as well as this final action, the EPA consulted with 8 national organizations representing state and local elected officials, including the National Governors Association, the National League of Cities, the National Association of Counties, the National Conference of State Legislatures, the United States Conference of Mayors, the County Executives of America, the Council of State Governments, and the National Association of Towns and Townships. Additionally, the Environmental Council of the States, the National Association of Clean Air Agencies and the Association of State and Territorial Solid Waste Management Officials participated in pre-proposal briefings. Finally, in addition to these associations, over 140 officials representing state and local governments across the nation participated in at least one of three pre-proposal briefings in the Fall of 2013 (September 10, 2013, November 7, 2013, and November 14, 2013.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicited input prior to proposal from these intergovernmental associations, their members, and the participating state and local officials during and in follow-up to these briefings. As a result of the first phase of pre-proposal intergovernmental outreach, the EPA received comments from [over 40] entities representing State and local governments. As the development of the rule continued, and in the interest of sharing additional information with its intergovernmental partners prior to proposing the rule, EPA conducted an additional Federalism outreach meeting on April 15, 2015.

The principal intergovernmental concerns raised during the pre-proposal consultations, as well as during the proposed rule's public comment period, include: Implementation concerns associated with shortening of gas collection system installation and/or expansion timeframes; concerns regarding significant lowering of the design capacity or emission thresholds; the need for clarifications associated with wellhead operating parameters; and, the need for consistent, clear, and rigorous surface monitoring requirements. In response to these comments and based upon the data currently available, the EPA has decided not to adjust the design capacity or significantly lower the emission threshold. The EPA has also decided not to adjust the time allotted for installation of the GCCS or expansion of the wellfield. In 80 FR 52121 (the proposed rule), the EPA highlighted specific concerns raised by commenters, which included state agencies as well as landfill owners and operators, about the interaction between shortened lag times and design plan approvals, costs and safety concerns associated with reduced lag times, and the need for flexibility for lag time adjustments. Wellhead operating parameters have been adjusted to limit corrective action requirements to negative pressure and temperature. The EPA also acknowledged concerns about wellhead operating parameters in 80 FR 52121 and reviewed public comments in favor of and against retention of the parameters during the public comment period as described in section VI.A.1 of this preamble.

As described section VI.B of this preamble, the EPA is finalizing a SEM approach for determining GCCS installation. Commenters were generally supportive of this approach and recognized the additional flexibility provided as an alternative to the traditional approach for determining GCCS installation based on a series of models. The EPA is also finalizing a subcategory for closed landfills as outlined in section VI.C of this preamble. While federalism commenters primarily supported this approach, some representatives of local governments opposed it due to trends in ownership and size of landfills and the perception that landfills owned by these entities should not benefit from subcategorization.

A complete list of the comments from State and local governments has been provided to OMB and has been placed in the docket for this rulemaking. In addition, the detailed response to comments from these entities is contained in the EPA's Response to Comments document for this rulemaking.

As required by section 8(a) of Executive Order 13132, the EPA included a certification from its Federalism Official stating that the EPA had met the Executive Order's requirements in a meaningful and timely manner when it sent the draft of this final action to OMB for review pursuant to Executive Order 12866. A copy of this certification is included in the public version of the official record for this final action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The database used to estimate impacts of the final 40 CFR part 60, subpart Cf, identified one tribe, the Salt River Pima-Maricopa Indian Community, which owns three landfills potentially subject to the final Emission Guidelines. One of these landfills is open, the Salt River Landfill, and is already controlling emissions under the current NSPS/EG framework, so while subject to this subpart, the costs of this proposal are not substantial. The two other landfills are closed and anticipated to meet the definition of the closed landfill subcategory. One of the closed landfills, the Tri Cities Landfill, is already controlling emissions under the current NSPS/EG framework and will not incur substantial additional compliance costs under subpart Cf. The other landfill, North Center Street Landfill, is not estimated to install controls under the current NSPS/EG framework.

As required by section 7(a), the EPA's Tribal Consultation Official has certified that the requirements of the Executive Order have been met in a meaningful and timely manner. A copy of the certification is included in the docket for this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is a significant regulatory action as defined by Executive Order 12866, and the EPA believes that the environmental health or safety risk addressed by this action has a disproportionate effect on children. Accordingly, the EPA has evaluated the environmental health and welfare effects of climate change on children.

Greenhouse gases including methane contribute to climate change and are emitted in significant quantities by the landfill sector. The EPA believes that the GHG emission reductions resulting from implementation of this final rule will further improve children's health.

The assessment literature cited in the EPA's 2009 Endangerment Finding concluded that certain populations and life stages, including children, the elderly, and the poor, are most vulnerable to climate-related health effects. The assessment literature since 2009 strengthens these conclusions by providing more detailed findings regarding these groups' vulnerabilities and the projected impacts they may experience.

These assessments describe how children's unique physiological and developmental factors contribute to making them particularly vulnerable to climate change. Impacts to children are expected from heat waves, air pollution, infectious and waterborne illnesses, and mental health effects resulting from extreme weather events. In addition, children are among those especially susceptible to most allergic diseases, as well as health effects associated with heat waves, storms, and floods. Additional health concerns may arise in low income households, especially those with children, if climate change reduces food availability and increases prices, leading to food insecurity within households.

More detailed information on the impacts of climate change to human health and welfare is provided in section III.B of this preamble.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that the final Emission Guidelines are not likely to have any adverse energy effects because the energy demanded to operate these control systems will be offset by additional energy supply from LFG energy projects.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

The final Emission Guidelines involve technical standards. For the final Emission Guidelines, the EPA has decided to use EPA Methods 2, 2E, 3, 3A, 3C, 18, 21, 25, 25A, and 25C of 40 CFR part 60, appendix A.

The EPA identified 15 voluntary consensus standards (VCS) as being potentially applicable (ASTM D3154–00 (2006), ASTM D3464–96 (2007), ASTM D3796–90 (2001), ANSI/ASME PTC 19–10–1981 Part 10, ASME B133.9–1994 (2001), ISO 10396:1993 (2007), ISO 12039:2001, ISO 10780:1994, ASTM D5835–95 (2013), ASTM D6522–11, ASTM D6420–99 (2010), CAN/CSA Z223.2–M86 (1999), ASTM D6060–96 (2009), ISO 14965:2000(E), EN 12619(1999)). The EPA determined that 14 of the 15 candidate VCS identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data, and other important technical and policy considerations. The agency identified no equivalent standards for Methods 2E, 21, and 25C. However, one voluntary consensus standard was identified as acceptable alternative to EPA test method for the purposes of this rule.

The voluntary consensus standard ASTM D6522–11, Standard Test Method for the Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers" is an acceptable alternative to Method 3A when used at the wellhead before combustion. It is advisable to know the flammability and check the Lower Explosive Limit of the flue gas constituents, prior to sampling, in order to avoid undesired ignition of the gas. The results of ASTM D6522–11 may be used to determine nitrogen oxides and carbon monoxide emission concentrations from natural gas combustion at stationary sources. This test method may also be used to monitor emissions during short-term emission tests or periodically in order to optimize process operation for nitrogen oxides and carbon monoxide control.

The EPA's review, including review of comments for these 15 methods, is documented in the memorandum, "Voluntary Consensus Standard Results for Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, 2016" in the docket for this rulemaking (EPA–HQ–OAR–2014–0451).

In this rule, the EPA is finalizing regulatory text for 40 CFR part 60, subpart Cf, that includes incorporation by reference in accordance with requirements of 1 CFR 51.5. Specifically, the EPA is incorporating by reference ASTM D6522–11. You may obtain a copy from American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959 or *http://www.astm.org.*

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. The EPA has determined this because the rulemaking increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low-income, or indigenous populations. To the extent that any minority, low-income, or indigenous subpopulation is disproportionately impacted by hazardous air emissions due to the proximity of their homes to sources of these emissions, that subpopulation also stands to see increased environmental and health benefit from the emission reductions called for by this rule.

The EPA has provided meaningful participation opportunities for minority, low-income, indigenous populations and tribes during the rulemaking process by conducting and participating in community calls and webinars. Documentation of these activities can be found in the July 13, 2016, document titled, "2016 Environmental Justice Screening Report for Municipal Solid Waste Landfills," a copy of which is available in the docket for this action (EPA–HQ–OAR–2014–0451).

The EPA is committed to assisting states and communities to develop plans that ensure there are no disproportionate, adverse impacts on overburdened communities. To provide information fundamental to that process, the EPA has conducted a proximity analysis for this final rulemaking that summarizes demographic data on the communities located near landfills.[62] The EPA understands that, in order to prevent disproportionately, high and adverse human health or environmental effects on these communities, both states and communities must have information on the communities living near facilities, including demographic data, and that accessing and using census data files requires expertise that some community groups may lack. Therefore, the EPA used census data from the American Community Survey (ACS) 2008–2012 to conduct a proximity analysis that can be used by states and communities as they develop state plans and as they later assess the final plans' impacts. The analysis and its results are presented in the EJ Screening Report for Municipal Solid Waste Landfills, which is located in the docket for this rulemaking at EPA–HQ–OAR–2014–0451.

The proximity analysis provides detailed demographic information on the communities located within a 3-mile radius of each affected landfill in the U.S. Included in the analysis is the breakdown by percentage of community characteristics such as income and minority status. The analysis shows a higher percentage of communities of color and people without high school diplomas living near landfills than national averages. It is important to note that the impacts of landfill emissions are not limited to a 3-mile radius and the impacts of both potential increases and decreases in landfill emissions can be felt many miles away. Still, being aware of the characteristics of communities closest to landfills is a starting point in understanding how changes in the landfill's air emissions may affect the air quality experienced by some of those already experiencing environmental burdens.

As stated in the Executive Order 12898 discussion located in section XIII.J of this preamble, the EPA believes that all communities will benefit from this final rulemaking because this action addresses the impacts of climate change by climate co-benefits achieved through reductions in the methane component of LFG. The EPA also believes that the information provided in the proximity analysis will promote engagement between vulnerable communities and their states and will be useful for states as they develop their plans.

Additionally, the EPA encourages states to conduct their own analyses of community considerations when developing their plans. Each state is uniquely knowledgeable about its own communities and well-positioned to consider the possible impacts of plans on vulnerable communities within its state. Conducting state-specific analyses would not only help states assess possible impacts of plan options, but it would also enhance a state's understanding of the means to engage these communities that would most effectively reach them and lead to valuable exchanges of information and concerns. A state analysis, together with the proximity analysis conducted by the EPA, would provide a solid foundation for engagement between a state and its communities.

Such state-specific analyses need not be exhaustive. An examination of the options a state is considering for its plan, and any projections of likely resulting increases in landfill emissions affecting low-income populations, communities of color populations, or indigenous communities, would be informative for communities. The analyses could include available air quality monitoring data and information from air quality models, and, if available, take into account information about local health vulnerabilities such as asthma rates or access to healthcare. Alternatively, a simple analysis may consider expected landfill utilization in geographic proximity to overburdened communities. The EPA will provide states with information on its publicly available environmental justice screening and mapping tool, EJ SCREEN, which they may use in conducting a state-specific analysis. Additionally, the EPA encourages states to submit a copy of their analysis if they choose to conduct one, with their initial and final plan submittals.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: July 14, 2016.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends title 40, chapter I of the Code of Federal Regulations as follows:

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[62] The proximity analysis was conducted using the EPA's environmental justice mapping and screening tool, EJSCREEN.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 60.17 is amended:

■ a. By redesignating paragraphs (h)(185) through (206) as paragraphs (h)(186) through (207), respectively; and

■ b. By adding a new paragraph (h)(185).

The addition reads as follows:

§ 60.17 Incorporations by reference.

* * * * *

(h) * * *

(185) ASTM D6522–11 Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers (Approved December 1, 2011), IBR approved for § 60.37f(a).

* * * * *

■ 3. Part 60 is amended by adding subpart Cf to read as follows:

Subpart Cf—Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

Sec.

60.30f Scope and delegated authorities.
60.31f Designated facilities.
60.32f Compliance times.
60.33f Emission Guidelines for municipal solid waste landfill emissions.
60.34f Operational standards for collection and control systems.
60.35f Test methods and procedures.
60.36f Compliance provisions.
60.37f Monitoring of operations.
60.38f Reporting guidelines.
60.39f Recordkeeping guidelines.
60.40f Specifications for active collection systems.
60.41f Definitions.

Subpart Cf—Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

§ 60.30f Scope and delegated authorities.

This subpart establishes Emission Guidelines and compliance times for the control of designated pollutants from certain designated municipal solid waste (MSW) landfills in accordance with section 111(d) of the Clean Air Act and subpart B of this part.

(a) If you are the Administrator of an air quality program in a state or United States protectorate with one or more existing MSW landfills that commenced construction, modification, or reconstruction on or before July 17, 2014, you must submit a state plan to the U.S. Environmental Protection Agency (EPA) that implements the Emission Guidelines contained in this subpart. The requirements for state plans are specified in subpart B of this part.

(b) You must submit a state plan to EPA by May 30, 2017.

(c) The following authorities will not be delegated to state, local, or tribal agencies:

(1) Approval of alternative methods to determine the NMOC concentration or a site-specific methane generation rate constant (k).

(2) [Reserved]

§ 60.31f Designated facilities.

(a) The designated facility to which these Emission Guidelines apply is each existing MSW landfill for which construction, reconstruction, or modification was commenced on or before July 17, 2014.

(b) Physical or operational changes made to an existing MSW landfill solely to comply with an emission guideline are not considered a modification or reconstruction and would not subject an existing MSW landfill to the requirements of a standard of performance for new MSW landfills.

(c) For purposes of obtaining an operating permit under title V of the Clean Air Act, the owner or operator of an MSW landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under part 70 or 71 of this chapter, unless the landfill is otherwise subject to either part 70 or 71. For purposes of submitting a timely application for an operating permit under part 70 or 71, the owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of EPA approval of the state's program under section 111(d) of the Clean Air Act, and not otherwise subject to either part 70 or 71, becomes subject to the requirements of § 70.5(a)(1)(i) or § 71.5(a)(1)(i) of this chapter 90 days after the effective date of such section 111(d) program approval, even if the design capacity report is submitted earlier.

(d) When an MSW landfill subject to this subpart is closed as defined in this subpart, the owner or operator is no longer subject to the requirement to maintain an operating permit under part 70 or 71 of this chapter for the landfill if the landfill is not otherwise subject to the requirements of either part 70 or 71 and if either of the following conditions are met:

(1) The landfill was never subject to the requirement to install and operate a gas collection and control system under § 60.33f; or

(2) The landfill meets the conditions for control system removal specified in § 60.33f(f).

(e) When an MSW landfill subject to this subpart is in the closed landfill subcategory, the owner or operator is not subject to the following reports of this subpart, provided the owner or operator submitted these reports under the provisions of subpart WWW of this part; 40 CFR part 62, subpart GGG; or a state plan implementing subpart Cc of this part on or before July 17, 2014:

(1) Initial design capacity report specified in § 60.38f(a).

(2) Initial or subsequent NMOC emission rate report specified in § 60.38f(c), provided that the most recent NMOC emission rate report indicated the NMOC emissions were below 50 Mg/yr.

(3) Collection and control system design plan specified in § 60.38f(d).

(4) Closure report specified in § 60.38f(f).

(5) Equipment removal report specified in § 60.38f(g).

(6) Initial annual report specified in § 60.38f(h).

(7) Initial performance test report in § 60.38f(i).

§ 60.32f Compliance times.

Planning, awarding of contracts, installing, and starting up MSW landfill air emission collection and control equipment that is capable of meeting the Emission Guidelines under § 60.33f must be completed within 30 months after the date an NMOC emission rate report shows NMOC emissions equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory); or within 30 months after the date of the most recent NMOC emission rate report that shows NMOC emissions equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory), if Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

§ 60.33f Emission Guidelines for municipal solid waste landfill emissions.

(a) *Landfills.* For approval, a state plan must require each owner or operator of an MSW landfill having a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume to collect and control MSW landfill emissions at each MSW landfill that meets the following conditions:

(1) The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.

(2) The landfill commenced construction, reconstruction, or modification on or before July 17, 2014.

(3) The landfill has an NMOC emission rate greater than or equal to 34 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(4) The landfill in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(b) *Collection system.* For approval, a state plan must include provisions for the installation of a gas collection and control system meeting the requirements in paragraphs (b)(1) through (3) and (c) of this section at each MSW landfill meeting the conditions in paragraph (a) of this section.

(1) *Collection system.* Install and start up a collection and control system that captures the gas generated within the landfill within 30 months after:

(i) The first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in § 60.38f(d)(4); or

(ii) The first annual NMOC emission rate report for a landfill in the closed landfill subcategory in which the NMOC emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 50 megagrams per year, as specified in § 60.38f(d)(4); or

(iii) The most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in § 60.38f(d)(4)(iii).

(2) *Active.* An active collection system must:

(i) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control system equipment.

(ii) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of 5 years or more if active; or 2 years or more if closed or at final grade.

(iii) Collect gas at a sufficient extraction rate.

(iv) Be designed to minimize off-site migration of subsurface gas.

(3) *Passive.* A passive collection system must:

(i) Comply with the provisions specified in paragraphs (b)(2)(i), (ii), and (iv) of this section.

(ii) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners must be installed as required under § 258.40 of this chapter.

(c) *Control system.* For approval, a state plan must include provisions for the control of the gas collected from within the landfill through the use of control devices meeting the following requirements, except as provided in § 60.24.

(1) A non-enclosed flare designed and operated in accordance with the parameters established in § 60.18 except as noted in § 60.37f(d); or

(2) A control system designed and operated to reduce NMOC by 98 weight percent; or when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at 3 percent oxygen or less. The reduction efficiency or concentration in parts per million by volume must be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in § 60.35f(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this subpart.

(i) If a boiler or process heater is used as the control device, the landfill gas stream must be introduced into the flame zone.

(ii) The control device must be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in § 60.37f.

(iii) For the closed landfill subcategory, the initial or most recent performance test conducted to comply with subpart WWW of this part; 40 CFR part 62, subpart GGG; or a state plan implementing subpart Cc of this part on or before July 17, 2014 is sufficient for compliance with this subpart.

(3) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not allowed. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, then the treated landfill gas must be controlled according to either paragraph (c)(1) or (2) of this section.

(4) All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of paragraph (b) or (c) of this section. For purposes of this subpart, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of paragraph (b) or (c) of this section.

(d) *Design capacity.* For approval, a state plan must require each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume to submit an initial design capacity report to the Administrator as provided in § 60.38f(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions must be documented and submitted with the report. Submittal of the initial design capacity report fulfills the requirements of this subpart except as provided in paragraphs (d)(1) and (2) of this section.

(1) The owner or operator must submit an amended design capacity report as provided in § 60.38f(b).

Note to paragraph (d)(1): Note that if the design capacity increase is the result of a modification, as defined in this subpart, that was commenced after July 17, 2014, then the landfill becomes subject to subpart XXX of this part instead of this subpart. If the design capacity increase is the result of a change in operating practices, density, or some other change that is not a modification as defined in this subpart, then the landfill remains subject to this subpart.

(2) When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator

must comply with paragraph (e) of this section.

(e) *Emissions.* For approval, a state plan must require each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters to either install a collection and control system as provided in paragraphs (b) and (c) of this section or calculate an initial NMOC emission rate for the landfill using the procedures specified in § 60.35f(a). The NMOC emission rate must be recalculated annually, except as provided in § 60.38f(c)(3).

(1) If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator must:

(i) Submit an annual NMOC emission rate report according to § 60.38f(c), except as provided in § 60.38f(c)(3); and

(ii) Recalculate the NMOC emission rate annually using the procedures specified in § 60.35f(a) until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed.

(A) If the calculated NMOC emission rate, upon initial calculation or annual recalculation required in paragraph (e)(1)(ii) of this section, is equal to or greater than 34 megagrams per year, the owner or operator must either: Comply with paragraphs (b) and (c) of this section; calculate NMOC emissions using the next higher tier in § 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.35f(a)(6).

(B) If the landfill is permanently closed, a closure report must be submitted to the Administrator as provided in § 60.38f(f), except for exemption allowed under § 60.31f(e)(4).

(C) For the closed landfill subcategory, if the most recently calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator must either: Submit a gas collection and control system design plan as specified in § 60.38f(d), except for exemptions allowed under § 60.31f(e)(3), and install a collection and control system as provided in paragraphs (b) and (c) of this section; calculate NMOC emissions using the next higher tier in § 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.35f(a)(6).

(2) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator must either: submit a collection and control system design plan prepared by a professional engineer to the Administrator within 1 year as specified in § 60.38f(d), except for exemptions allowed under § 60.31f(e)(3); calculate NMOC emissions using a higher tier in § 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.35f(a)(6).

(3) For the closed landfill subcategory, if the calculated NMOC emission rate is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator must either: Submit a collection and control system design plan as specified in § 60.38f(d), except for exemptions allowed under § 60.31f(e)(3); calculate NMOC emissions using a higher tier in § 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.35f(a)(6).

(f) *Removal criteria.* The collection and control system may be capped, removed, or decommissioned if the following criteria are met:

(1) The landfill is a closed landfill (as defined in § 60.41f). A closure report must be submitted to the Administrator as provided in § 60.38f(f).

(2) The collection and control system has been in operation a minimum of 15 years or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow.

(3) Following the procedures specified in § 60.35f(b), the calculated NMOC emission rate at the landfill is less than 34 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart.

(4) For the closed landfill subcategory (as defined in § 60.41), following the procedures specified in § 60.35f(b), the calculated NMOC emission rate at the landfill is less than 50 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart.

§ 60.34f Operational standards for collection and control systems.

For approval, a state plan must include provisions for the operational standards in this section for an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.33f(b) and (c). Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.33f(b) and (c) must:

(a) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:

(1) Five (5) years or more if active; or

(2) Two (2) years or more if closed or at final grade.

(b) Operate the collection system with negative pressure at each wellhead except under the following conditions:

(1) A fire or increased well temperature. The owner or operator must record instances when positive pressure occurs in efforts to avoid a fire. These records must be submitted with the annual reports as provided in § 60.38f(h)(1).

(2) Use of a geomembrane or synthetic cover. The owner or operator must develop acceptable pressure limits in the design plan.

(3) A decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes must be approved by the Administrator as specified in § 60.38f(d).

(c) Operate each interior wellhead in the collection system with a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator may establish a higher operating temperature value at a particular well. A higher operating value demonstration must be submitted to the Administrator for approval and must include supporting data demonstrating that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens. The demonstration must satisfy both criteria in order to be approved (*i.e.,* neither causing fires nor killing methanogens is acceptable).

(d) Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator must conduct surface testing using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 60.36(d). The owner or operator must conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. Thus, the owner or operator must monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan must be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing.

(e) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with § 60.33f(c). In the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere must be closed within 1 hour of the collection or control system not operating.

(f) Operate the control system at all times when the collected gas is routed to the system.

(g) If monitoring demonstrates that the operational requirements in paragraph (b), (c), or (d) of this section are not met, corrective action must be taken as specified in § 60.36f(a)(3) and (5) or (c). If corrective actions are taken as specified in § 60.36f, the monitored exceedance is not a violation of the operational requirements in this section.

§ 60.35f Test methods and procedures.

For approval, a state plan must include provisions in this section to calculate the landfill NMOC emission rate or to conduct a surface emission monitoring demonstration.

(a)(1) *NMOC Emission Rate.* The landfill owner or operator must calculate the NMOC emission rate using either Equation 1 provided in paragraph (a)(1)(i) of this section or Equation 2 provided in paragraph (a)(1)(ii) of this section. Both Equation 1 and Equation 2 may be used if the actual year-to-year solid waste acceptance rate is known, as specified in paragraph (a)(1)(i) of this section, for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, as specified in paragraph (a)(1)(ii) of this section, for part of the life of the landfill. The values to be used in both Equation 1 and Equation 2 are 0.05 per year for k, 170 cubic meters per megagram for Lo, and 4,000 parts per million by volume as hexane for the C_{NMOC}. For landfills located in geographical areas with a 30-year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorologic site, the k value to be used is 0.02 per year.

(i)(A) Equation 1 must be used if the actual year-to-year solid waste acceptance rate is known.

$$M_{NMOC} = \sum_{i=1}^{n} 2\,k\,L_o M_i (e^{-kt_i})(C_{NMOC})(3.6 \times 10^{-9}) \qquad \text{(Eq. 1)}$$

Where:

M_{NMOC} = Total NMOC emission rate from the landfill, megagrams per year.

k = Methane generation rate constant, $year^{-1}$.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of solid waste in the i^{th} section, megagrams.

t_i = Age of the i^{th} section, years.

C_{NMOC} = Concentration of NMOC, parts per million by volume as hexane.

3.6×10^{-9} = Conversion factor.

(B) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for M_i if documentation of the nature and amount of such wastes is maintained.

(ii)(A) Equation 2 must be used if the actual year-to-year solid waste acceptance rate is unknown.

$$M_{NMOC} = 2L_oR\,(e^{-kc} - e^{-kt})\,C_{NMOC}(3.6 \times 10^{-9}) \qquad \text{(Eq. 2)}$$

Where:

M_{NMOC} = Mass emission rate of NMOC, megagrams per year.

L_o = Methane generation potential, cubic meters per megagram solid waste.

R = Average annual acceptance rate, megagrams per year.

k = Methane generation rate constant, $year^{-1}$.

t = Age of landfill, years.

C_{NMOC} = Concentration of NMOC, parts per million by volume as hexane.

c = Time since closure, years; for an active landfill c = 0 and $e^{-kc} = 1$.

3.6×10^{-9} = Conversion factor.

(B) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value of R, if documentation of the nature and amount of such wastes is maintained.

(2) *Tier 1.* The owner or operator must compare the calculated NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC emission rate calculated in paragraph (a)(1) of this section is less than 34 megagrams per year, then the owner or operator must submit an NMOC emission rate report according to § 60.38f(c), and must recalculate the NMOC mass emission rate annually as required under § 60.33f(e).

(ii) If the NMOC emission rate calculated in paragraph (a)(1) of this section is equal to or greater than 34 megagrams per year, then the landfill owner or operator must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 60.38f(d) and install and operate a gas collection and control system within 30 months according to § 60.33f(b) and (c);

(B) Determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the Tier 2 procedures provided in paragraph (a)(3) of this section; or

(C) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the Tier 3 procedures provided in paragraph (a)(4) of this section.

(3) *Tier 2.* The landfill owner or operator must determine the site-specific NMOC concentration using the following sampling procedure. The landfill owner or operator must install at least two sample probes per hectare, evenly distributed over the landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The probes should be evenly distributed across the sample area. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator must collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Method 25 or 25C of appendix A of this part. Taking composite samples from different probes into a single cylinder is allowed; however, equal sample volumes must be taken from each probe. For each composite, the sampling rate, collection times, beginning and ending cylinder vacuums, or alternative volume measurements must be recorded to verify that composite volumes are equal. Composite sample volumes should not be less than one liter unless evidence can be provided to substantiate the

accuracy of smaller volumes. Terminate compositing before the cylinder approaches ambient pressure where measurement accuracy diminishes. If more than the required number of samples is taken, all samples must be used in the analysis. The landfill owner or operator must divide the NMOC concentration from Method 25 or 25C by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane. If the landfill has an active or passive gas removal system in place, Method 25 or 25C samples may be collected from these systems instead of surface probes provided the removal system can be shown to provide sampling as representative as the two sampling probe per hectare requirement. For active collection systems, samples may be collected from the common header pipe. The sample location on the common header pipe must be before any gas moving, condensate removal, or treatment system equipment. For active collection systems, a minimum of three samples must be collected from the header pipe.

(i) Within 60 days after the date of determining the NMOC concentration and corresponding NMOC emission rate, the owner or operator must submit the results according to § 60.38f(j)(2).

(ii) The landfill owner or operator must recalculate the NMOC mass emission rate using Equation 1 or Equation 2 provided in paragraph (a)(1)(i) or (ii) of this section using the average site-specific NMOC concentration from the collected samples instead of the default value provided in paragraph (a)(1) of this section.

(iii) If the resulting NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator must submit a periodic estimate of NMOC emissions in an NMOC emission rate report according to § 60.38f(c), and must recalculate the NMOC mass emission rate annually as required under § 60.33f(e). The site-specific NMOC concentration must be retested every 5 years using the methods specified in this section.

(iv) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration is equal to or greater than 34 megagrams per year, the owner or operator must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 60.38f(d) and install and operate a gas collection and control system within 30 months according to § 60.33f(b) and (c);

(B) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the site-specific methane generation rate using the Tier 3 procedures specified in paragraph (a)(4) of this section; or

(C) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(4) *Tier 3.* The site-specific methane generation rate constant must be determined using the procedures provided in Method 2E of appendix A of this part. The landfill owner or operator must estimate the NMOC mass emission rate using Equation 1 or Equation 2 in paragraph (a)(1)(i) or (ii) of this section and using a site-specific methane generation rate constant, and the site-specific NMOC concentration as determined in paragraph (a)(3) of this section instead of the default values provided in paragraph (a)(1) of this section. The landfill owner or operator must compare the resulting NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration and Tier 3 site-specific methane generation rate is equal to or greater than 34 megagrams per year, the owner or operator must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 60.38f(d) and install and operate a gas collection and control system within 30 months according to § 60.33f(b) and (c); or

(B) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(ii) If the NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator must recalculate the NMOC mass emission rate annually using Equation 1 or Equation 2 in paragraph (a)(1) of this section and using the site-specific Tier 2 NMOC concentration and Tier 3 methane generation rate constant and submit a periodic NMOC emission rate report as provided in § 60.38f(c). The calculation of the methane generation rate constant is performed only once, and the value obtained from this test must be used in all subsequent annual NMOC emission rate calculations.

(5) *Other methods.* The owner or operator may use other methods to determine the NMOC concentration or a site-specific methane generation rate constant as an alternative to the methods required in paragraphs (a)(3) and (4) of this section if the method has been approved by the Administrator.

(6) *Tier 4.* The landfill owner or operator must demonstrate that surface methane emissions are below 500 parts per million. Surface emission monitoring must be conducted on a quarterly basis using the following procedures. Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr but less than 50 Mg/yr using Tier 1 or Tier 2. If both Tier 1 and Tier 2 indicate NMOC emissions are 50 Mg/yr or greater, then Tier 4 cannot be used. In addition, the landfill must meet the criteria in paragraph (a)(6)(viii) of this section.

(i) The owner or operator must measure surface concentrations of methane along the entire perimeter of the landfill and along a pattern that traverses the landfill at no more than 30-meter intervals using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 60.36f(d).

(ii) The background concentration must be determined by moving the probe inlet upwind and downwind at least 30 meters from the waste mass boundary of the landfill.

(iii) Surface emission monitoring must be performed in accordance with section 8.3.1 of Method 21 of appendix A of this part, except that the probe inlet must be placed no more than 5 centimeters above the landfill surface; the constant measurement of distance above the surface should be based on a mechanical device such as with a wheel on a pole.

(A) The owner or operator must use a wind barrier, similar to a funnel, when onsite average wind speed exceeds 4 miles per hour or 2 meters per second or gust exceeding 10 miles per hour. Average on-site wind speed must also be determined in an open area at 5-minute intervals using an on-site anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The wind barrier must surround the SEM monitor, and must be placed on the ground, to ensure wind turbulence is blocked. SEM cannot be conducted if average wind speed exceeds 25 miles per hour.

(B) Landfill surface areas where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover, and all cover penetrations must also be monitored using a device meeting the specifications provided in § 60.36f(d).

(iv) Each owner or operator seeking to comply with the Tier 4 provisions in paragraph (a)(6) of this section must maintain records of surface emission monitoring as provided in § 60.39f(g) and submit a Tier 4 surface emissions report as provided in § 60.38f(d)(4)(iii).

(v) If there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must submit a gas collection and control system design plan within 1 year of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill according to § 60.38f(d) and install and operate a gas collection and control system according to § 60.33f(b) and (c) within 30 months of the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2.

(vi) If after four consecutive quarterly monitoring periods at a landfill, other than a closed landfill, there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must continue quarterly surface emission monitoring using the methods specified in this section.

(vii) If after four consecutive quarterly monitoring periods at a closed landfill there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must conduct annual surface emission monitoring using the methods specified in this section.

(viii) If a landfill has installed and operates a collection and control system that is not required by this subpart, then the collection and control system must meet the following criteria:

(A) The gas collection and control system must have operated for at least 6,570 out of 8,760 hours preceding the Tier 4 surface emissions monitoring demonstration.

(B) During the Tier 4 surface emissions monitoring demonstration, the gas collection and control system must operate as it normally would to collect and control as much landfill gas as possible.

(b) After the installation and startup of a collection and control system in compliance with this subpart, the owner or operator must calculate the NMOC emission rate for purposes of determining when the system can be capped, removed, or decommissioned as provided in § 60.33f(f), using Equation 3:

$$M_{NMOC} = 1.89 \times 10^{-3} Q_{LFG} C_{NMOC} \qquad \text{(Eq. 3)}$$

Where:

M_{NMOC} = Mass emission rate of NMOC, megagrams per year.

Q_{LFG} = Flow rate of landfill gas, cubic meters per minute.

C_{NMOC} = NMOC concentration, parts per million by volume as hexane.

(1) The flow rate of landfill gas, Q_{LFG}, must be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control system using a gas flow measuring device calibrated according to the provisions of section 10 of Method 2E of appendix A of this part.

(2) The average NMOC concentration, C_{NMOC}, must be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in Method 25 or Method 25C of appendix A of this part. The sample location on the common header pipe must be before any condensate removal or other gas refining units. The landfill owner or operator must divide the NMOC concentration from Method 25 or Method 25C by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane.

(3) The owner or operator may use another method to determine landfill gas flow rate and NMOC concentration if the method has been approved by the Administrator.

(i) Within 60 days after the date of calculating the NMOC emission rate for purposes of determining when the system can be capped or removed, the owner or operator must submit the results according to § 60.38f(j)(2).

(ii) [Reserved]

(c) When calculating emissions for Prevention of Significant Deterioration purposes, the owner or operator of each MSW landfill subject to the provisions of this subpart must estimate the NMOC emission rate for comparison to the Prevention of Significant Deterioration major source and significance levels in § 51.166 or § 52.21 of this chapter using Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources (AP–42) or other approved measurement procedures.

(d) For the performance test required in § 60.33f(c)(1), the net heating value of the combusted landfill gas as determined in § 60.18(f)(3) is calculated from the concentration of methane in the landfill gas as measured by Method 3C. A minimum of three 30-minute Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under § 60.18(f)(4).

(1) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of the performance tests required by paragraph (b) or (d) of this section, including any associated fuel analyses, according to § 60.38f(j)(1).

(2) [Reserved]

(e) For the performance test required in § 60.33f(c)(2), Method 25 or 25C (Method 25C may be used at the inlet only) of appendix A of this part must be used to determine compliance with the 98 weight-percent efficiency or the 20 parts per million by volume outlet NMOC concentration level, unless another method to demonstrate compliance has been approved by the Administrator as provided by § 60.38f(d)(2). Method 3, 3A, or 3C must be used to determine oxygen for correcting the NMOC concentration as hexane to 3 percent. In cases where the outlet concentration is less than 50 ppm NMOC as carbon (8 ppm NMOC as hexane), Method 25A should be used in place of Method 25. Method 18 may be used in conjunction with Method 25A on a limited basis (compound specific, *e.g.*, methane) or Method 3C may be used to determine methane. The methane as carbon should be subtracted from the Method 25A total hydrocarbon value as carbon to give NMOC concentration as carbon. The landfill owner or operator must divide the NMOC concentration as carbon by 6 to convert the C_{NMOC} as carbon to C_{NMOC} as hexane. Equation 4 must be used to calculate efficiency:

$$\text{Control Efficiency} = (NMOC_{in} - NMOC_{out})/(NMOC_{in}) \qquad \text{(Eq.4)}$$

Where:

$NMOC_{in}$ = Mass of NMOC entering control device.

$NMOC_{out}$ = Mass of NMOC exiting control device.

(1) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, according to § 60.38f(j)(1).

(2) [Reserved]

§ 60.36f Compliance provisions.

For approval, a state plan must include the compliance provisions in this section.

(a) Except as provided in § 60.38f(d)(2), the specified methods in paragraphs (a)(1) through (6) of this section must be used to determine whether the gas collection system is in compliance with § 60.33f(b)(2).

(1) For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with § 60.33f(b)(2)(i), either Equation 5 or Equation 6 in paragraph (a)(1)(i) or (ii) of this section must be used. The methane generation rate constant (k) and methane generation potential (L_o) kinetic factors should be those published in the most recent AP–42 or other site-specific values demonstrated to be appropriate and approved by the Administrator. If k has been determined as specified in § 60.35f(a)(4), the value of k determined from the test must be used. A value of no more than 15 years must be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

(i) For sites with unknown year-to-year solid waste acceptance rate:

$$Q_m = 2L_oR\left(e^{-kc}-e^{-kt}\right) \qquad \text{(Eq. 5)}$$

Where:

Q_m = Maximum expected gas generation flow rate, cubic meters per year.

L_o = Methane generation potential, cubic meters per megagram solid waste.

R = Average annual acceptance rate, megagrams per year.

k = Methane generation rate constant, $year^{-1}$.

t = Age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t is the age of the landfill at installation, years.

c = Time since closure, years (for an active landfill c = 0 and $e^{-kc} = 1$).

(ii) For sites with known year-to-year solid waste acceptance rate:

$$Q_M = \sum_{i=1}^{n} 2kL_oM_i\left(e^{-kt_i}\right) \qquad \text{(Eq. 6)}$$

Where:

Q_M = Maximum expected gas generation flow rate, cubic meters per year.

k = Methane generation rate constant, $year^{-1}$.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of solid waste in the i^{th} section, megagrams.

t_i = Age of the i^{th} section, years.

(iii) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, Equation 5 or Equation 6 in paragraph (a)(1)(i) or (ii) of this section. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using Equation 5 or Equation 6 or other methods must be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

(2) For the purposes of determining sufficient density of gas collectors for compliance with § 60.33f(b)(2)(ii), the owner or operator must design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the Administrator, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

(3) For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with § 60.33f(b)(2)(iii), the owner or operator must measure gauge pressure in the gas collection header applied to each individual well monthly. If a positive pressure exists, action must be initiated to correct the exceedance within 5 calendar days, except for the three conditions allowed under § 60.34f(b). Any attempted corrective measure must not cause exceedances of other operational or performance standards.

(i) If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement of positive pressure, the owner or operator must conduct a root cause analysis and correct the exceedance as soon as practicable, but not later than 60 days after positive pressure was first measured. The owner or operator must keep records according to § 60.39f(e)(3).

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the positive pressure measurement. The owner or operator must submit the items listed in § 60.38f(h)(7) as part of the next annual report. The owner or operator must keep records according to § 60.39f(e)(4).

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator, according to § 60.38f(h)(7) and (k). The owner or operator must keep records according to § 60.39f(e)(5).

(4) [Reserved]

(5) For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator must monitor each well monthly for temperature as provided in § 60.34f(c). If a well exceeds the operating parameter for temperature, action must be initiated to correct the exceedance within 5 calendar days. Any attempted corrective measure must not

cause exceedances of other operational or performance standards.

(i) If a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit) cannot be achieved within 15 calendar days of the first measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit), the owner or operator must conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after a landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit) was first measured. The owner or operator must keep records according to § 60.39f(e)(3).

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator must submit the items listed in § 60.38f(h)(7) as part of the next annual report. The owner or operator must keep records according to § 60.39f(e)(4).

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator, according to § 60.38f(h)(7) and (k). The owner or operator must keep records according to § 60.39f(e)(5).

(6) An owner or operator seeking to demonstrate compliance with § 60.33f(b)(2)(iv) through the use of a collection system not conforming to the specifications provided in § 60.40f must provide information satisfactory to the Administrator as specified in § 60.38f(d)(3) demonstrating that off-site migration is being controlled.

(b) For purposes of compliance with § 60.34f(a), each owner or operator of a controlled landfill must place each well or design component as specified in the approved design plan as provided in § 60.38f(d). Each well must be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

(1) Five (5) years or more if active; or

(2) Two (2) years or more if closed or at final grade.

(c) The following procedures must be used for compliance with the surface methane operational standard as provided in § 60.34f(d):

(1) After installation and startup of the gas collection system, the owner or operator must monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in paragraph (d) of this section.

(2) The background concentration must be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

(3) Surface emission monitoring must be performed in accordance with section 8.3.1 of Method 21 of appendix A of this part, except that the probe inlet must be placed within 5 to 10 centimeters of the ground. Monitoring must be performed during typical meteorological conditions.

(4) Any reading of 500 parts per million or more above background at any location must be recorded as a monitored exceedance and the actions specified in paragraphs (c)(4)(i) through (v) of this section must be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of § 60.34f(d).

(i) The location of each monitored exceedance must be marked and the location and concentration recorded. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates must be in decimal degrees with at least five decimal places.

(ii) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance must be made and the location must be re-monitored within 10 calendar days of detecting the exceedance.

(iii) If the re-monitoring of the location shows a second exceedance, additional corrective action must be taken and the location must be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in paragraph (c)(4)(v) of this section must be taken, and no further monitoring of that location is required until the action specified in paragraph (c)(4)(v) of this section has been taken.

(iv) Any location that initially showed an exceedance but has a methane concentration less than 500 parts per million methane above background at the 10-day re-monitoring specified in paragraph (c)(4)(ii) or (iii) of this section must be re-monitored 1 month from the initial exceedance. If the 1-month re-monitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month re-monitoring shows an exceedance, the actions specified in paragraph (c)(4)(iii) or (v) of this section must be taken.

(v) For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device must be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the Administrator for approval.

(5) The owner or operator must implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

(d) Each owner or operator seeking to comply with the provisions in paragraph (c) of this section or § 60.35f(a)(6) must comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

(1) The portable analyzer must meet the instrument specifications provided in section 6 of Method 21 of appendix A of this part, except that "methane" replaces all references to "VOC".

(2) The calibration gas must be methane, diluted to a nominal concentration of 500 parts per million in air.

(3) To meet the performance evaluation requirements in section 8.1 of Method 21 of appendix A of this part, the instrument evaluation procedures of section 8.1 of Method 21 must be used.

(4) The calibration procedures provided in sections 8 and 10 of Method 21 of appendix A of this part must be followed immediately before commencing a surface monitoring survey.

(e) The provisions of this subpart apply at all times, including periods of startup, shutdown, or malfunction. During periods of startup, shutdown, and malfunction, you must comply with the work practice specified in § 60.34f(e) in lieu of the compliance provisions in § 60.36f.

§ 60.37f Monitoring of operations.

For approval, a state plan must include the monitoring provisions in this section, except as provided in § 60.38f(d)(2).

(a) Each owner or operator seeking to comply with § 60.33f(b)(2) for an active gas collection system must install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

(1) Measure the gauge pressure in the gas collection header on a monthly basis as provided in § 60.36f(a)(3); and

(2) Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as follows:

(i) The nitrogen level must be determined using Method 3C, unless an alternative test method is established as allowed by § 60.38f(d)(2).

(ii) Unless an alternative test method is established as allowed by § 60.38f(d)(2), the oxygen level must be determined by an oxygen meter using Method 3A, 3C, or ASTM D6522–11 (incorporated by reference, see § 60.17). Determine the oxygen level by an oxygen meter using Method 3A, 3C, or ASTM D6522–11 (if sample location is prior to combustion) except that:

(A) The span must be set between 10 and 12 percent oxygen;

(B) A data recorder is not required;

(C) Only two calibration gases are required, a zero and span;

(D) A calibration error check is not required; and

(E) The allowable sample bias, zero drift, and calibration drift are ±10 percent.

(iii) A portable gas composition analyzer may be used to monitor the oxygen levels provided:

(A) The analyzer is calibrated; and

(B) The analyzer meets all quality assurance and quality control requirements for Method 3A or ASTM D6522–11 (incorporated by reference, see § 60.17).

(3) Monitor temperature of the landfill gas on a monthly basis as provided in § 60.36f(a)(5). The temperature measuring device must be calibrated annually using the procedure in this part 60, appendix A–1, Method 2, Section 10.3.

(b) Each owner or operator seeking to comply with § 60.33f(c) using an enclosed combustor must calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment:

(1) A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ±1 percent of the temperature being measured expressed in degrees Celsius or ±0.5 degrees Celsius, whichever is greater. A temperature monitoring device is not required for boilers or process heaters with design heat input capacity equal to or greater than 44 megawatts.

(2) A device that records flow to the control device and bypass of the control device (if applicable). The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that must record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(c) Each owner or operator seeking to comply with § 60.33f(c) using a non-enclosed flare must install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

(1) A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.

(2) A device that records flow to the flare and bypass of the flare (if applicable). The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(d) Each owner or operator seeking to demonstrate compliance with § 60.33f(c) using a device other than a non-enclosed flare or an enclosed combustor or a treatment system must provide information satisfactory to the Administrator as provided in § 60.38f(d)(2) describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator must review the information and either approve it, or request that additional information be submitted. The Administrator may specify additional appropriate monitoring procedures.

(e) Each owner or operator seeking to install a collection system that does not meet the specifications in § 60.40f or seeking to monitor alternative parameters to those required by §§ 60.34f through 60.37f must provide information satisfactory to the Administrator as provided in § 60.38f(d)(2) and (3) describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator may specify additional appropriate monitoring procedures.

(f) Each owner or operator seeking to demonstrate compliance with the 500 parts per million surface methane operational standard in § 60.34f(d) must monitor surface concentrations of methane according to the procedures provided in § 60.36f(c) and the instrument specifications in § 60.36f(d). Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 parts per million or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

(g) Each owner or operator seeking to demonstrate compliance with the control system requirements in § 60.33f(c) using a landfill gas treatment system must maintain and operate all monitoring systems associated with the treatment system in accordance with the site-specific treatment system monitoring plan required in § 60.39f(b)(5)(ii) and must calibrate, maintain, and operate according to the manufacturer's specifications a device that records flow to the treatment system and bypass of the treatment system (if applicable). The owner or operator must:

(1) Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the treatment system at least every 15 minutes; and

(2) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(h) The monitoring requirements of paragraphs (b), (c) (d) and (g) of this section apply at all times the affected source is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You are required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

§ 60.38f Reporting guidelines.

For approval, a state plan must include the reporting provisions listed in this section, as applicable, except as provided under §§ 60.24 and 60.38f(d)(2).

(a) *Design capacity report.* For existing MSW landfills subject to this subpart, the initial design capacity report must be submitted no later than 90 days after the effective date of EPA approval of the state's plan under section 111(d) of the Clean Air Act. The initial design capacity report must contain the following information:

(1) A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid waste may be landfilled according to the permit issued by the state, local, or tribal agency responsible for regulating the landfill.

(2) The maximum design capacity of the landfill. Where the maximum design capacity is specified in the permit issued by the state, local, or tribal agency responsible for regulating the landfill, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity must be calculated using good engineering practices. The calculations must be provided, along with the relevant parameters as part of the report. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually. Any density conversions must be documented and submitted with the design capacity report. The state, local, or tribal agency or the Administrator may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

(b) *Amended design capacity report.* An amended design capacity report must be submitted providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in § 60.39f(f).

(c) *NMOC emission rate report.* For existing MSW landfills covered by this subpart with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the NMOC emission rate report must be submitted following the procedure specified in paragraph (j)(2) of this section no later than 90 days after the effective date of EPA approval of the state's plan under section 111(d) of the Clean Air Act. The NMOC emission rate report must be submitted to the Administrator annually following the procedure specified in paragraph (j)(2) of this section, except as provided for in paragraph (c)(3) of this section. The Administrator may request such additional information as may be necessary to verify the reported NMOC emission rate.

(1) The NMOC emission rate report must contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures provided in § 60.35f(a) or (b), as applicable.

(2) The NMOC emission rate report must include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

(3) If the estimated NMOC emission rate as reported in the annual report to the Administrator is less than 34 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit, following the procedure specified in paragraph (j)(2) of this section, an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate must include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based must be provided to the Administrator. This estimate must be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate must be submitted to the Administrator. The revised estimate must cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

(4) Each owner or operator subject to the requirements of this subpart is exempted from the requirements to submit an NMOC emission rate report, after installing a collection and control system that complies with § 60.33f(b) and (c), during such time as the collection and control system is in operation and in compliance with §§ 60.34f and 60.36f.

(d) *Collection and control system design plan.* The state plan must include a process for state review and approval of the site-specific design plan for each gas collection and control system. The collection and control system design plan must be prepared and approved by a professional engineer and must meet the following requirements:

(1) The collection and control system as described in the design plan must meet the design requirements in § 60.33f(b) and (c).

(2) The collection and control system design plan must include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions of §§ 60.34f through 60.39f proposed by the owner or operator.

(3) The collection and control system design plan must either conform to specifications for active collection systems in § 60.40f or include a demonstration to the Administrator's satisfaction of the sufficiency of the alternative provisions to § 60.40f.

(4) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must submit a copy of the collection and control system design plan cover page that contains the engineer's seal to the Administrator within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year, except as follows:

(i) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in § 60.35f(a)(3) and the resulting rate is less than 34 megagrams per year, annual periodic reporting must be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated NMOC emission rate is equal to or greater than 34 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated NMOC emission rate based on NMOC sampling and analysis, must be submitted, following the procedures in paragraph (j)(2) of this section, within 180 days of the first calculated exceedance of 34 megagrams per year.

(ii) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant k, as provided in Tier 3 in § 60.35f(a)(4), and the resulting NMOC emission rate is less than 34 megagrams per year, annual periodic reporting must be resumed. The resulting site-specific methane generation rate constant k must be used in the NMOC emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of § 60.35f(a)(4) and the resulting site-specific methane generation rate constant k must be submitted, following the procedure specified in paragraph (j)(2) of this section, to the Administrator within 1 year of the first calculated NMOC emission rate equaling or exceeding 34 megagrams per year.

(iii) If the owner or operator elects to demonstrate that site-specific surface methane emissions are below 500 parts per million methane, based on the provisions of § 60.35f(a)(6), then the owner or operator must submit annually a Tier 4 surface emissions report as specified in this paragraph (d)(4)(iii) following the procedure specified in paragraph (j)(2) of this section until a surface emissions readings of 500 parts per million methane or greater is found. If the Tier 4 surface emissions report shows no surface emissions readings of 500 parts per million methane or greater for four consecutive quarters at a closed landfill, then the landfill owner or operator may reduce Tier 4 monitoring from a quarterly to an annual frequency. The Administrator may request such additional information as may be necessary to verify the reported instantaneous surface emission readings. The Tier 4 surface emissions report must clearly identify the location, date and time (to the nearest second), average wind speeds including wind gusts, and reading (in parts per million) of any value 500 parts per million methane or greater, other than non-repeatable, momentary readings. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates must be in decimal degrees with at least five decimal places. The Tier 4 surface emission report should also include the results of the most recent Tier 1 and Tier 2 results in order to verify that the landfill does not exceed 50 Mg/yr of NMOC.

(A) The initial Tier 4 surface emissions report must be submitted annually, starting within 30 days of completing the fourth quarter of Tier 4 surface emissions monitoring that demonstrates that site-specific surface methane emissions are below 500 parts per million methane, and following the procedure specified in paragraph (j)(2) of this section.

(B) The Tier 4 surface emissions rate report must be submitted within 1 year of the first measured surface exceedance of 500 parts per million methane, following the procedure specified in paragraph (j)(2) of this section.

(iv) If the landfill is in the closed landfill subcategory, the owner or operator must submit a collection and control system design plan to the Administrator within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 50 megagrams per year, except as follows:

(A) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in § 60.35f(a)(3) and the resulting rate is less than 50 megagrams per year, annual periodic reporting must be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated NMOC emission rate is equal to or greater than 50 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated NMOC emission rate based on NMOC sampling and analysis, must be submitted, following the procedure specified in paragraph (j)(2) of this section, within 180 days of the first calculated exceedance of 50 megagrams per year.

(B) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant k, as provided in Tier 3 in § 60.35f(a)(4), and the resulting NMOC emission rate is less than 50 megagrams per year, annual periodic reporting must be resumed. The resulting site-specific methane generation rate constant k must be used in the NMOC emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of § 60.35f(a)(4) and the resulting site-specific methane generation rate constant k must be submitted, following the procedure specified in paragraph (j)(2) of this section, to the Administrator within 1 year of the first calculated NMOC emission rate equaling or exceeding 50 megagrams per year.

(C) The landfill owner or operator elects to demonstrate surface emissions are low, consistent with the provisions in paragraph (d)(4)(iii) of this section.

(D) The landfill has already submitted a gas collection and control system design plan consistent with the provisions of subpart WWW of this part; 40 CFR part 62, subpart GGG; or a state plan implementing subpart Cc of this part.

(5) The landfill owner or operator must notify the Administrator that the design plan is completed and submit a copy of the plan's signature page. The Administrator has 90 days to decide whether the design plan should be submitted for review. If the Administrator chooses to review the plan, the approval process continues as described in paragraph (c)(6) of this section. However, if the Administrator indicates that submission is not required or does not respond within 90 days, the landfill owner or operator can continue to implement the plan with the recognition that the owner or operator is proceeding at their own risk. In the event that the design plan is required to be modified to obtain approval, the owner or operator must take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action.

(6) Upon receipt of an initial or revised design plan, the Administrator must review the information submitted under paragraphs (d)(1) through (3) of this section and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems. If the Administrator does not approve or disapprove the design plan, or does not request that additional information be submitted within 90 days of receipt, then the owner or operator may continue with implementation of the design plan, recognizing they would be proceeding at their own risk.

(7) If the owner or operator chooses to demonstrate compliance with the emission control requirements of this subpart using a treatment system as defined in this subpart, then the owner or operator must prepare a site-specific

treatment system monitoring plan as specified in § 60.39f(b)(5).

(e) *Revised design plan.* The owner or operator who has already been required to submit a design plan under paragraph (d) of this section, or under subpart WWW of this part; 40 CFR part 62, subpart GGG; or a state plan implementing subpart Cc of this part, must submit a revised design plan to the Administrator for approval as follows:

(1) At least 90 days before expanding operations to an area not covered by the previously approved design plan.

(2) Prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Administrator according to paragraph (d) of this section.

(f) *Closure report.* Each owner or operator of a controlled landfill must submit a closure report to the Administrator within 30 days of ceasing waste acceptance. The Administrator may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of 40 CFR 258.60. If a closure report has been submitted to the Administrator, no additional wastes may be placed into the landfill without filing a notification of modification as described under § 60.7(a)(4).

(g) *Equipment removal report.* Each owner or operator of a controlled landfill must submit an equipment removal report to the Administrator 30 days prior to removal or cessation of operation of the control equipment.

(1) The equipment removal report must contain the following items:

(i) A copy of the closure report submitted in accordance with paragraph (f) of this section; and

(ii) A copy of the initial performance test report demonstrating that the 15-year minimum control period has expired, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX, or information that demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flows. In the equipment removal report, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX; and

(iii) Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 34 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports; or

(iv) For the closed landfill subcategory, dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 50 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports.

(2) The Administrator may request such additional information as may be necessary to verify that all of the conditions for removal in § 60.33f(f) have been met.

(h) *Annual report.* The owner or operator of a landfill seeking to comply with § 60.33f(e)(2) using an active collection system designed in accordance with § 60.33f(b) must submit to the Administrator, following the procedures specified in paragraph (j)(2) of this section, an annual report of the recorded information in paragraphs (h)(1) through (7) of this section. The initial annual report must be submitted within 180 days of installation and startup of the collection and control system. The initial annual report must include the initial performance test report required under § 60.8, as applicable, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX. In the initial annual report, the process unit(s) tested, the pollutant(s) tested and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX. The initial performance test report must be submitted, following the procedure specified in paragraph (j)(1) of this section, no later than the date that the initial annual report is submitted. For enclosed combustion devices and flares, reportable exceedances are defined under § 60.39f(c)(1).

(1) Value and length of time for exceedance of applicable parameters monitored under § 60.37f(a)(1), (b), (c), (d), and (g).

(2) Description and duration of all periods when the gas stream was diverted from the control device or treatment system through a bypass line or the indication of bypass flow as specified under § 60.37f.

(3) Description and duration of all periods when the control device or treatment system was not operating and length of time the control device or treatment system was not operating.

(4) All periods when the collection system was not operating.

(5) The location of each exceedance of the 500 parts per million methane concentration as provided in § 60.34f(d) and the concentration recorded at each location for which an exceedance was recorded in the previous month. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates must be in decimal degrees with at least five decimal places.

(6) The date of installation and the location of each well or collection system expansion added pursuant to § 60.36f(a)(3), (a)(5), (b), and (c)(4).

(7) For any corrective action analysis for which corrective actions are required in § 60.36f(a)(3) or (5) and that take more than 60 days to correct the exceedance, the root cause analysis conducted, including a description of the recommended corrective action(s), the date for corrective action(s) already completed following the positive pressure reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(i) *Initial performance test report.* Each owner or operator seeking to comply with § 60.33f(c) must include the following information with the initial performance test report required under § 60.8:

(1) A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

(2) The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;

(3) The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

(4) The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area;

(5) The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

(6) The provisions for the control of off-site migration.

(j) *Electronic reporting.* The owner or operator must submit reports electronically according to paragraphs (j)(1) and (2) of this section.

(1) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of each performance test according to the following procedures:

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*https://www3.epa.gov/ttn/chief/ert/ert_info.html*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternative file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site, once the XML schema is available. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (j)(1)(i).

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(2) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX.) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI Web site (*https://www3.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. Once the form has been available in CEDRI for 90 calendar days, the owner or operator must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(k) *Corrective action and the corresponding timeline.* The owner or operator must submit according to paragraphs (k)(1) and (2) of this section.

(1) For corrective action that is required according to § 60.36f(a)(3)(iii) or (a)(5)(iii) and is expected to take longer than 120 days after the initial exceedance to complete, you must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above. The Administrator must approve the plan for corrective action and the corresponding timeline.

(2) For corrective action that is required according to § 60.36f(a)(3)(iii) or (a)(5)(iii) and is not completed within 60 days after the initial exceedance, you must submit a notification to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature exceedance.

(l) *Liquids addition.* The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research, Development, and Demonstration permit (issued through Resource Conservation and Recovery Act, subtitle D, part 258) within the last 10 years must submit to the Administrator, annually, following the procedure specified in paragraph (j)(2) of this section, the following information:

(1) Volume of leachate recirculated (gallons per year) and the reported basis of those estimates (records or engineering estimates).

(2) Total volume of all other liquids added (gallons per year) and the reported basis of those estimates (records or engineering estimates).

(3) Surface area (acres) over which the leachate is recirculated (or otherwise applied).

(4) Surface area (acres) over which any other liquids are applied.

(5) The total waste disposed (megagrams) in the areas with recirculated leachate and/or added liquids based on on-site records to the extent data are available, or engineering estimates and the reported basis of those estimates.

(6) The annual waste acceptance rates (megagrams per year) in the areas with recirculated leachate and/or added liquids, based on on-site records to the extent data are available, or engineering estimates.

(7) The initial report must contain items in paragraph (l)(1) through (6) of this section per year for the most recent 365 days as well as for each of the previous 10 years, to the extent historical data are available in on-site records, and the report must be submitted no later than:

(i) September 27, 2017, for landfills that commenced construction, modification, or reconstruction after July 17, 2014 but before August 29, 2016; or

(ii) 365 days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction after August 29, 2016.

(8) Subsequent annual reports must contain items in paragraph (l)(1) through (6) of this section for the 365-day period following the 365-day period included in the previous annual report, and the report must be submitted no later than 365 days after the date the previous report was submitted.

(9) Landfills in the closed landfill subcategory are exempt from reporting requirements contained in paragraphs (l)(1) through (7) of this section.

(10) Landfills may cease annual reporting of items in paragraphs (l)(1) through (6) of this section once they have submitted the closure report in § 60.38f(f).

(m) *Tier 4 notification.* (1) The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must provide a notification of the date(s) upon which it intends to demonstrate site-specific surface methane emissions are below 500 parts per million methane, based on the Tier 4 provisions of § 60.35f(a)(6). The landfill must also include a description of the wind barrier to be used during the SEM in the notification. Notification must be postmarked not less than 30 days prior to such date.

(2) If there is a delay to the scheduled Tier 4 SEM date due to weather conditions, including not meeting the wind requirements in § 60.35f (a)(6)(iii)(A), the owner or operator of a landfill shall notify the Administrator by email or telephone no later than 48 hours before any known delay in the original test date, and arrange an updated date with the Administrator by mutual agreement.

§ 60.39f Recordkeeping guidelines.

For approval, a state plan must include the recordkeeping provisions in this section.

(a) Except as provided in § 60.38f(d)(2), each owner or operator of an MSW landfill subject to the provisions of § 60.33f(e) must keep for at least 5 years up-to-date, readily accessible, on-site records of the design capacity report that triggered § 60.33f(e), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(b) Except as provided in § 60.38f(d)(2), each owner or operator of a controlled landfill must keep up-to-date, readily accessible records for the life of the control system equipment of the data listed in paragraphs (b)(1) through (5) of this section as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring must be maintained for a minimum of 5 years. Records of the control device vendor specifications must be maintained until removal.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(b):

(i) The maximum expected gas generation flow rate as calculated in § 60.36f(a)(1). The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Administrator.

(ii) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in § 60.40f(a)(1).

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(c) through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

(i) The average temperature measured at least every 15 minutes and averaged over the same time period of the performance test.

(ii) The percent reduction of NMOC determined as specified in § 60.33f(c)(2) achieved by the control device.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(c)(2)(i) through use of a boiler or process heater of any size: A description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance testing.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(c)(1) through use of a non-enclosed flare, the flare type (*i.e.,* steam-assisted, air-assisted, or non-assisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in § 60.18; and continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the pilot flame or the flare flame is absent.

(5) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(c)(3) through use of a landfill gas treatment system:

(i) *Bypass records.* Records of the flow of landfill gas to, and bypass of, the treatment system.

(ii) *Site-specific treatment monitoring plan,* to include:

(A) Monitoring records of parameters that are identified in the treatment system monitoring plan and that ensure the treatment system is operating properly for each intended end use of the treated landfill gas. At a minimum, records should include records of filtration, de-watering, and compression parameters that ensure the treatment system is operating properly for each intended end use of the treated landfill gas.

(B) Monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for each intended end use of the treated landfill gas.

(C) Documentation of the monitoring methods and ranges, along with justification for their use.

(D) Identify who is responsible (by job title) for data collection.

(E) Processes and methods used to collect the necessary data.

(F) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

(c) Except as provided in § 60.38f(d)(2), each owner or operator of a controlled landfill subject to the provisions of this subpart must keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in § 60.37f as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

(1) The following constitute exceedances that must be recorded and reported under § 60.38f:

(i) For enclosed combustors except for boilers and process heaters with design heat input capacity of 44 megawatts (150 million British thermal unit per hour) or greater, all 3-hour periods of operation during which the average temperature was more than 28 degrees Celsius (82 degrees Fahrenheit) below the average combustion temperature during the most recent performance test at which compliance with § 60.33f(c) was determined.

(ii) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under paragraph (b)(3) of this section.

(2) Each owner or operator subject to the provisions of this subpart must keep up-to-date, readily accessible continuous records of the indication of flow to the control system and the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under § 60.37f.

(3) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with § 60.33f(c) must keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other state, local,

tribal, or federal regulatory requirements.)

(4) Each owner or operator seeking to comply with the provisions of this subpart by use of a non-enclosed flare must keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under § 60.37f(c), and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

(5) Each owner or operator of a landfill seeking to comply with § 60.33f(e) using an active collection system designed in accordance with § 60.33f(b) must keep records of periods when the collection system or control device is not operating.

(d) Except as provided in § 60.38f(d)(2), each owner or operator subject to the provisions of this subpart must keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label on each collector that matches the labeling on the plot map.

(1) Each owner or operator subject to the provisions of this subpart must keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under § 60.36f(b).

(2) Each owner or operator subject to the provisions of this subpart must keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in § 60.40f(a)(3)(i) as well as any nonproductive areas excluded from collection as provided in § 60.40f(a)(3)(ii).

(e) Except as provided in § 60.38f(d)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of the following:

(1) All collection and control system exceedances of the operational standards in § 60.34f, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

(2) Each owner or operator subject to the provisions of this subpart must also keep records of each wellhead temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above, each wellhead nitrogen level at or above 20 percent, and each wellhead oxygen level at or above 5 percent.

(3) For any root cause analysis for which corrective actions are required in § 60.36f(a)(3) or (5), keep a record of the root cause analysis conducted, including a description of the recommended corrective action(s) taken, and the date(s) the corrective action(s) were completed.

(4) For any root cause analysis for which corrective actions are required in § 60.36f(a)(3)(ii) or (a)(5)(ii), keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(5) For any root cause analysis for which corrective actions are required in § 60.36f(a)(3)(iii) or (a)(5)(iii), keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates, and a copy of any comments or final approval on the corrective action analysis or schedule from the regulatory agency.

(f) Landfill owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity", must keep readily accessible, on-site records of the annual recalculation of site-specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(g) Landfill owners or operators seeking to demonstrate that site-specific surface methane emissions are below 500 parts per million by conducting surface emission monitoring under the Tier 4 procedures specified in § 60.35f(a)(6) must keep for at least 5 years up-to-date, readily accessible records of all surface emissions monitoring and information related to monitoring instrument calibrations conducted according to sections 8 and 10 of Method 21 of appendix A of this part, including all of the following items:

(1) Calibration records:

(i) Date of calibration and initials of operator performing the calibration.

(ii) Calibration gas cylinder identification, certification date, and certified concentration.

(iii) Instrument scale(s) used.

(iv) A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value.

(v) If an owner or operator makes their own calibration gas, a description of the procedure used.

(2) Digital photographs of the instrument setup. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration.

(3) Timestamp of each surface scan reading:

(i) Timestamp should be detailed to the nearest second, based on when the sample collection begins.

(ii) A log for the length of time each sample was taken using a stopwatch (*e.g.*, the time the probe was held over the area).

(4) Location of each surface scan reading. The owner or operator must determine the coordinates using an instrument with an accuracy of at least 4 meters. Coordinates must be in decimal degrees with at least five decimal places.

(5) Monitored methane concentration (parts per million) of each reading.

(6) Background methane concentration (parts per million) after each instrument calibration test.

(7) Adjusted methane concentration using most recent calibration (parts per million).

(8) For readings taken at each surface penetration, the unique identification location label matching the label specified in paragraph (d) of this section.

(9) Records of the operating hours of the gas collection system for each destruction device.

(h) Except as provided in § 60.38f(d)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in § 60.37f(a)(1), (2), and (3).

(i) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

(j) For each owner or operator reporting leachate or other liquids addition under § 60.38f(l), keep records of any engineering calculations or company records used to estimate the quantities of leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

§ 60.40f Specifications for active collection systems.

For approval, a state plan must include the specifications for active collection systems in this section.

(a) Each owner or operator seeking to comply with § 60.33f(b) must site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the Administrator.

(1) The collection devices within the interior must be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues must be addressed in the design: depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, resistance to the refuse decomposition heat, and ability to isolate individual components or sections for repair or troubleshooting without shutting down entire collection system.

(2) The sufficient density of gas collection devices determined in paragraph (a)(1) of this section must address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

(3) The placement of gas collection devices determined in paragraph (a)(1) of this section must control all gas producing areas, except as provided by paragraphs (a)(3)(i) and (ii) of this section.

(i) Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under § 60.39f(d). The documentation must provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and must be provided to the Administrator upon request.

(ii) Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The amount, location, and age of the material must be documented and provided to the Administrator upon request. A separate NMOC emissions estimate must be made for each section proposed for exclusion, and the sum of all such sections must be compared to the NMOC emissions estimate for the entire landfill.

(A) The NMOC emissions from each section proposed for exclusion must be computed using Equation 7:

$$Q_i = 2kL_oM_i(e^{-kt_i})(C_{NMOC})(3.6 \: x \: 10^{-9}) \qquad \text{(Eq. 7)}$$

Where:

Q_i = NMOC emission rate from the i^{th} section, megagrams per year.
k = Methane generation rate constant, $year^{-1}$.
L_o = Methane generation potential, cubic meters per megagram solid waste.
M_i = Mass of the degradable solid waste in the i^{th} section, megagram.
t_i = Age of the solid waste in the i^{th} section, years.
C_{NMOC} = Concentration of NMOC, parts per million by volume.
3.6×10^{-9} = Conversion factor.

(B) If the owner or operator is proposing to exclude, or cease gas collection and control from, nonproductive physically separated (*e.g.*, separately lined) closed areas that already have gas collection systems, NMOC emissions from each physically separated closed area must be computed using either Equation 3 in § 60.35f or Equation 7 in paragraph (a)(3)(ii)(A) of this section.

(iii) The values for k and C_{NMOC} determined in field testing must be used if field testing has been performed in determining the NMOC emission rate or the radii of influence (the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k, L_o, and C_{NMOC} provided in § 60.35f or the alternative values from § 60.35f must be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in paragraph (a)(3)(i) of this section.

(b) Each owner or operator seeking to comply with § 60.33f(b) must construct the gas collection devices using the following equipment or procedures:

(1) The landfill gas extraction components must be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: Convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system must extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors must be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations must be situated with regard to the need to prevent excessive air infiltration.

(2) Vertical wells must be placed so as not to endanger underlying liners and must address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors must be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices must be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

(3) Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly must include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices must be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(c) Each owner or operator seeking to comply with § 60.33f(c) must convey the landfill gas to a control system in compliance with § 60.33f(c) through the collection header pipe(s). The gas mover equipment must be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

(1) For existing collection systems, the flow data must be used to project the maximum flow rate. If no flow data

exist, the procedures in paragraph (c)(2) of this section must be used.

(2) For new collection systems, the maximum flow rate must be in accordance with § 60.36f(a)(1).

§ 60.41f Definitions.

Terms used but not defined in this subpart have the meaning given them in the Clean Air Act and in subparts A and B of this part.

Active collection system means a gas collection system that uses gas mover equipment.

Active landfill means a landfill in which solid waste is being placed or a landfill that is planned to accept waste in the future.

Administrator means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative or the Administrator of a state air pollution control agency.

Closed area means a separately lined area of an MSW landfill in which solid waste is no longer being placed. If additional solid waste is placed in that area of the landfill, that landfill area is no longer closed. The area must be separately lined to ensure that the landfill gas does not migrate between open and closed areas.

Closed landfill means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under § 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

Closed landfill subcategory means a closed landfill that has submitted a closure report as specified in § 60.38f(f) on or before September 27, 2017.

Closure means that point in time when a landfill becomes a closed landfill.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

Controlled landfill means any landfill at which collection and control systems are required under this subpart as a result of the NMOC emission rate. The landfill is considered controlled at the time a collection and control system design plan is prepared in compliance with § 60.33f(e)(2).

Corrective action analysis means a description of all reasonable interim and long-term measures, if any, that are available, and an explanation of why the selected corrective action(s) is/are the best alternative(s), including, but not limited to, considerations of cost effectiveness, technical feasibility, safety, and secondary impacts.

Design capacity means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the state, local, or tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually.

Disposal facility means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

Emission rate cutoff means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

Enclosed combustor means an enclosed firebox which maintains a relatively constant limited peak temperature generally using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

Flare means an open combustor without enclosure or shroud.

Gas mover equipment means the equipment (*i.e.*, fan, blower, compressor) used to transport landfill gas through the header system.

Gust means the highest instantaneous wind speed that occurs over a 3-second running average.

Household waste means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). Household waste does not include fully segregated yard waste. Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities. Household waste does not include construction, renovation, or demolition wastes, even if originating from a household.

Industrial solid waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act, parts 264 and 265 of this chapter. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

Interior well means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside the landfilled waste is not an interior well.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under § 257.2 of this title.

Lateral expansion means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

Leachate recirculation means the practice of taking the leachate collected from the landfill and reapplying it to the landfill by any of one of a variety of methods, including pre-wetting of the waste, direct discharge into the working face, spraying, infiltration ponds, vertical injection wells, horizontal gravity distribution systems, and pressure distribution systems.

Modification means an increase in the permitted volume design capacity of the landfill by either lateral or vertical expansion based on its permitted design capacity as of July 17, 2014. Modification does not occur until the owner or operator commences construction on the lateral or vertical expansion.

Municipal solid waste landfill or *MSW landfill* means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of Resource Conservation and Recovery Act (RCRA) Subtitle D wastes (§ 257.2 of this title) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

Municipal solid waste landfill emissions or *MSW landfill emissions* means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

NMOC means nonmethane organic compounds, as measured according to the provisions of § 60.35f.

Nondegradable waste means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

Passive collection system means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

Protectorate means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the Virgin Islands.

Root cause analysis means an assessment conducted through a process of investigation to determine the primary cause, and any other contributing causes, of positive pressure at a wellhead.

Sludge means the term sludge as defined in 40 CFR 258.2.

Solid waste means the term solid waste as defined in 40 CFR 258.2.

State means any of the 50 United States and the protectorates of the United States.

State plan means a plan submitted pursuant to section 111(d) of the Clean Air Act and subpart B of this part that implements and enforces this subpart.

Sufficient density means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this part.

Sufficient extraction rate means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

Treated landfill gas means landfill gas processed in a treatment system as defined in this subpart.

Treatment system means a system that filters, de-waters, and compresses landfill gas for sale or beneficial use.

*Untreated landfil*l gas means any landfill gas that is not treated landfill gas.

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Part III

Environmental Protection Agency

40 CFR Part 60
Standards of Performance for Municipal Solid Waste Landfills; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2003–0215; FRL–9949–51–OAR]

RIN 2060–AM08

Standards of Performance for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a new subpart that updates the Standards of Performance for Municipal Solid Waste Landfills. Under section 111 of the Clean Air Act, the EPA must review, and, if appropriate, revise standards of performance at least every 8 years. The EPA's review of the standards for municipal solid waste landfills considered landfills that commence construction, reconstruction, or modification after July 17, 2014. The final standards also reflect changes to the population of landfills and an analysis of the timing and methods for reducing emissions. This action will achieve additional reductions in emissions of landfill gas and its components, including methane, by lowering the emissions threshold at which a landfill must install controls. This action also incorporates new data and information received in response to the proposed rulemaking and addresses other regulatory issues including surface emissions monitoring, wellhead monitoring, and the definition of landfill gas treatment system.

The new subpart will reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. Landfills are a significant source of methane, which is a potent greenhouse gas pollutant. These avoided emissions will improve air quality and reduce the potential for public health and welfare effects associated with exposure to landfill gas emissions.

DATES: This final rule is effective on October 28, 2016.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0215. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For information concerning this final rule, contact Ms. Hillary Ward, Fuels and Incineration Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3154; fax number: (919) 541–0246; email address: *ward.hillary@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

ANPRM	Advance notice of proposed rulemaking
ANSI	American National Standards Institute
BMP	Best management practice
BSER	Best system of emission reduction
Btu	British thermal unit
CAA	Clean Air Act
CA LMR	California Landfill Methane Rule
CBI	Confidential business information
CDX	Central Data Exchange
CEDRI	Compliance and Emissions Data Reporting Interface
CFR	Code of Federal Regulations
CO$_2$	Carbon dioxide
CO$_2$e	Carbon dioxide equivalent
EIA	Energy Information Administration
EPA	Environmental Protection Agency
ERT	Electronic Reporting Tool
FID	Flame ionization detector
GCCS	Gas collection and control system
GHG	Greenhouse gas
GHGRP	Greenhouse Gas Reporting Program
GWP	Global warming potential
HAP	Hazardous air pollutant
HOV	Higher operating value
IAMS	Integrated assessment models
ICR	Information collection request
IPCC	Intergovernmental Panel on Climate Change
IWG	Interagency working group
lb/MMBtu	Pounds per million British thermal unit
LFG	Landfill gas
LFGCost	Landfill Gas Energy Cost Model
m^3	Cubic meters
Mg	Megagram
Mg/yr	Megagram per year
mph	Miles per hour
MSW	Municipal solid waste
mtCO$_2$e	Metric tons of carbon dioxide equivalent
MW	Megawatt
MWh	Megawatt hour
NAICS	North American Industry Classification System
NESHAP	National Emission Standards for Hazardous Air Pollutants
NMOC	Nonmethane organic compound
NRC	National Research Council
NSPS	New source performance standards
NTTAA	National Technology Transfer and Advancement Act
OAQPS	Office of Air Quality Planning and Standards
OMB	Office of Management & Budget
PM	Particulate matter
PM$_{2.5}$	Fine particulate matter
ppm	Parts per million
RCRA	Resource Conservation and Recovery Act
RD&D	Research, development, and demonstration
RFA	Regulatory Flexibility Act
RIA	Regulatory Impact Analysis
SBAR	Small Business Advocacy Review
SC–CH$_4$	Social cost of methane
SC–CO$_2$	Social cost of carbon dioxide
SEM	Surface emissions monitoring
SER	Small entity representative
SO$_2$	Sulfur dioxide
SSM	Startup, shutdown, and malfunction
Tg	Teragram
TTN	Technology Transfer Network
U.S.	United States
USGCRP	U.S. Global Change Research Program
VCS	Voluntary consensus standard
VOC	Volatile organic compound
WWW	World Wide Web

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K. Congressional Review Act (CRA)

I. Executive Summary

A. Purpose of Regulatory Action

This action finalizes changes to the Standards of Performance for Municipal Solid Waste (MSW) Landfills (landfills new source performance standards or landfills NSPS) resulting from the EPA's review of the landfills NSPS under Clean Air Act (CAA) section 111. The EPA's review identified a number of advances in technology and operating practices for reducing emissions of landfill gas (LFG) and the final changes are based on our evaluation of those advances and our understanding of LFG emissions. In order to avoid possible confusion regarding which MSW landfills would actually be subject to these requirements, the EPA is establishing a new subpart XXX (40 CFR part 60, subpart XXX) rather than merely updating the existing subpart WWW (40 CFR part 60, subpart WWW). The requirements in new subpart XXX apply to MSW landfills for which construction, reconstruction, or modification commenced after July 17, 2014, the date of the proposed rule. The requirements in subpart WWW continue to apply to MSW landfills for which construction, reconstruction, or modification was commenced on or after May 30, 1991 and on or before July 17, 2014. For a discussion of how changes in applicability affect sources currently subject to subparts Cc and WWW, see the proposed Emission Guidelines (80 FR 52110, August 27, 2016).

The resulting changes to the NSPS found in subpart XXX will achieve additional reductions in emissions of LFG and its components, including methane. This final rule is consistent with the President's 2013 Climate Action Plan,[1] which directs federal agencies to focus on "assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions, and identifying existing authorities and incentive-based opportunities to reduce methane emissions." The final rule is also consistent with the President's Methane Strategy,[2] which directs the EPA's regulatory and voluntary programs to continue to pursue emission reductions through regulatory updates and to encourage LFG energy recovery through voluntary programs. These directives are discussed in detail in section III.A of this preamble. This regulatory action also resolves and clarifies several implementation issues that were previously addressed in amendments proposed on May 23, 2002 (67 FR 36475) and September 8, 2006 (71 FR 53271).

1. Need for Regulatory Action

Several factors led to today's final action. First, section 111 of the Clean Air Act (CAA) (42 U.S.C. 7411) requires the EPA to review standards of performance at least every 8 years and, if appropriate, revise the standards to reflect improvements in methods for reducing emissions. Second, a mandatory duty lawsuit was filed against the EPA for failure to review the NSPS by the statutorily required deadline. Under a consent decree resolving that lawsuit, the EPA agreed to propose a review and take final action on the proposal. Third, the EPA has concluded that landfill owners or operators, as well as regulators, need clarification regarding issues that have arisen during implementation of the existing standards. Implementation issues include the definition of LFG treatment, among other topics. Fourth, landfills are a significant source of methane, a very potent greenhouse gas, for which there are cost-effective means of reduction, so this rule is an important element of the United States' work to reduce emissions that are contributing to climate change.

2. Legal Authority

CAA section 111(b)(1)(B) (42 U.S.C. 7411(b)(1)(B)) requires the EPA to "at least every 8 years review and, if appropriate, revise" new source performance standards. CAA section 111(a)(1) (42 U.S.C. 7411(a)(1)) provides that performance standards are to "reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." We refer to this level of control as the best system of emission reduction or "BSER."

As indicated above, the EPA has decided to finalize its review of the landfill NSPS in a new subpart rather than update existing requirements in 40 CFR part 60, subpart WWW. The EPA believes that either approach is legally permissible.[3] The final subpart XXX will appear in 40 CFR part 60 and will apply to landfills that commence construction, reconstruction, or modification after July 17, 2014.

B. Summary of Major Provisions

The final NSPS apply to landfills that commenced construction, reconstruction, or modification after July 17, 2014 (the date of publication of the proposed NSPS). The final rule provisions are described below.

Thresholds for Installing Controls. The final NSPS retain the current design capacity threshold of 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3), but reduce the nonmethane organic compounds (NMOC) emission threshold for the installation and removal of a gas collection and control system (GCCS) from 50 megagrams per year (Mg/yr) to 34 Mg/yr. An MSW landfill that exceeds the design capacity threshold must install and start up a GCCS within 30 months after LFG emissions reach or exceed an NMOC level of 34 Mg/yr. (A megagram is also known as a metric ton, which is equal to 1.1 United States (U.S.) short tons or about 2,205 pounds.) Consistent with the existing NSPS (40 CFR part 60, subpart WWW), the owner or operator of a landfill may control the gas by routing it to a non-enclosed flare, an enclosed combustion device, or a treatment system that processes the collected gas for subsequent sale or beneficial use.

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[1] Executive Office of the President, "The President's Climate Action Plan" June 2013. *https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.*

[2] Executive Office of the President, "Climate Action Plan Strategy to Reduce Methane, March 2014. *https://www.whitehouse.gov/sites/default/files/strategy_to_reduce_methane_emissions_2014-03-28_final.pdf.*

[3] The EPA believes that it has the legal authority in updating an NSPS to either propose and make changes to the existing subpart or to promulgate a new subpart and has previously done both. In either case, any substantive changes to the NSPS apply only to sources for which construction, reconstruction, or modification commenced on or after the date on which the proposed changes were published in the **Federal Register** (July 17, 2014).

Emission Threshold Determination. The EPA is finalizing an alternative site-specific emission threshold methodology for when a landfill must install and operate a GCCS. This alternative methodology, referred to as "Tier 4," is based on surface emission monitoring (SEM) and demonstrates whether or not surface emissions are below a specific threshold. The Tier 4 SEM demonstration allows landfills that exceed the threshold using modeled NMOC emission rates using Tier 1 or 2 to demonstrate that actual site-specific surface methane emissions are below the threshold. A landfill that can demonstrate that surface emissions are below 500 parts per million (ppm) for four consecutive quarters does not trigger the requirement to install a GCCS even if Tier 1, 2, or 3 calculations indicate that the 34 Mg/yr threshold has been exceeded. Landfills that have calculated NMOC emissions of 50 Mg/yr or greater are not eligible for the Tier 4 emission threshold determination in order to prevent conflicting requirements between subpart XXX and the landfills NESHAP (40 CFR part 63, subpart AAAA). Many landfills that are subject to subpart XXX will also be subject to the landfills NESHAP. The landfills NESHAP requires landfills that exceed the size threshold (2.5 million Mg and 2.5 million m^3) and exceed the NMOC emissions threshold (50 Mg/yr) to install and operate a GCCS.

Low LFG Producing Areas. The EPA is also finalizing criteria for determining when it is appropriate to cap or remove all or a portion of the GCCS. The final criteria for capping or removing all or a portion of the GCCS are: (1) The landfill is closed, (2) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) the calculated NMOC emission rate at the landfill is less than 34 Mg/yr on three successive test dates.

Landfill Gas Treatment. In the final NSPS, the EPA has addressed two issues related to LFG treatment. First, the EPA is clarifying that the use of treated LFG is not limited to use as a fuel for a stationary combustion device but may be used for other beneficial uses such as vehicle fuel, production of high-British thermal unit (Btu) gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Second, the EPA is finalizing the definition of *treated landfill gas* that applies to LFG processed in a treatment system meeting the requirements in 40 CFR part 60, subpart XXX and defining *treatment system* as a system that filters, de-waters, and compresses LFG for sale or beneficial use. The definition of treatment system allows the level of treatment to be tailored to the type and design of the specific combustion equipment or the other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process in which the LFG is used. Owners or operators must develop a site-specific treatment system monitoring plan that includes monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for the intended end use of the treated LFG. They also must keep records that demonstrate that such parameters effectively monitor filtration, de-watering, and compression system performance necessary for the end use of the treated LFG.

Wellhead Operational Standards. The EPA is finalizing changes to certain operational standards (*i.e.*, the requirement to meet specific operating limits) for nitrogen/oxygen level at the wellheads. Landfill owners or operators are not required to take corrective action based on exceedances of specified operational standards for nitrogen/oxygen levels at wellheads, but they must continue to monitor and maintain records of nitrogen/oxygen levels on a monthly basis in order to inform any necessary adjustments to the GCCS and must maintain records of monthly readings. The operational standard, corrective action, and corresponding recordkeeping and reporting remain for temperature and maintaining negative pressure at the wellhead.

Surface Monitoring. The EPA is finalizing the requirement to monitor all surface penetrations at landfills. In final 40 CFR part 60, subpart XXX, landfills must conduct SEM at all cover penetrations and openings within the area of the landfill where waste has been placed and a gas collection system is required to be in place and operating according to the operational standards in final 40 CFR part 60, subpart XXX. Specifically, landfill owners or operators must conduct surface monitoring on a quarterly basis at the specified intervals and where visual observations indicate elevated concentrations of LFG, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations.

Startup, Shutdown, and Malfunction. The EPA is finalizing a requirement that standards of performance in the NSPS apply at all times, including periods of startup, shutdown, and malfunction (SSM). The EPA is also finalizing an alternative standard during SSM events: In the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system that could contribute to venting of the gas to the atmosphere must be closed within 1 hour of the collection or control system not operating.

Other Clarifications. The EPA is finalizing a number of clarifications to address several issues that have been raised by landfill owners or operators during implementation of the current NSPS and Emission Guidelines. These clarifications include adding criteria for when an affected source must update its design plan and clarifying when landfill owners or operators must submit requests to extend the timeline for taking corrective action. The EPA is also updating several definitions in the NSPS. In addition, while the EPA is not mandating organics diversion, we are finalizing two specific compliance flexibilities in the NSPS to encourage wider adoption of organics diversion and GCCS Best Management Practices (BMPs) for emission reductions at landfills. These compliance flexibilities are discussed in sections VI.A.1 and VI.A.2 (wellhead monitoring) and section V.B and VI.B (Tier 4 emission threshold determination) of this preamble.

C. Costs and Benefits

The final NSPS are expected to significantly reduce emissions of LFG and its components, which include methane, volatile organic compounds (VOC), and hazardous air pollutants (HAP). Landfills are a significant source of methane emissions, and in 2014 landfills represented the third largest source of human-related methane emissions in the U.S. This rulemaking applies to landfills that commence construction, modification, or reconstruction after July 17, 2014. In the 5 years following July 17, 2014, the EPA estimates that 14 landfills will commence construction and 123 landfills will modify. Note that landfills are not expected to reconstruct (63 FR 32745, June 16, 1998).

To comply with the emissions limits in the final rule, owners or operators of new or modified MSW landfills are expected to install the least-cost control for collecting and treating or combusting LFG. The annualized net cost for the final NSPS is estimated to be $6.0 million (2012$) in 2025, when using a 7 percent discount rate. The annualized costs represent the costs compared to no changes to the current NSPS (*i.e.*, baseline) and include $11 million to install and operate a GCCS, as well as $0.08 million to complete the corresponding testing and monitoring. These control costs are offset by $5.1 million in revenue from electricity sales, which is incorporated into the net control costs for certain landfills that are expected to generate revenue by using the LFG to produce electricity.

Installation of a GCCS to comply with the 34 Mg/yr NMOC emissions threshold at new or modified landfills would achieve reductions of 281 Mg/yr NMOC and 44,300 Mg/yr methane (about 1.1 million metric tons of carbon dioxide equivalent per year (mtCO_2e/yr)) beyond the baseline in year 2025. In addition, the final rule is expected to result in the net reduction of 26,000 Mg-CO_2, due to reduced demand by landfills for electricity from the grid as landfills generate electricity from LFG. The NMOC portion of LFG can contain a variety of air pollutants, including VOC and various organic HAP. VOC emissions are precursors to both fine particulate matter ($PM_{2.5}$) and ozone formation. These pollutants, along with methane, are associated with substantial health effects, welfare effects, and climate effects. The EPA expects that the reduced emissions will result in improvements in air quality and lessen the potential for health effects associated with exposure to air pollution related emissions, and result in climate benefits due to reductions of the methane component of LFG.

The EPA estimates that the final rule's estimated methane emission reductions and secondary CO_2 emission reductions in the year 2025 would yield global monetized climate benefits of $31 million to approximately $180 million, depending on the discount rate. Using the mean social cost of methane (SC-CH_4) and social cost of CO_2 (SC-CO_2), at a 3-percent discount rate, results in an estimate of about $68 million in 2025 (2012$).

The SC-CH_4 and SC-CO_2 are the monetary values of impacts associated with marginal changes in methane and CO_2 emissions, respectively, in a given year. Each metric includes a wide range of anticipated climate impacts, such as net changes in agricultural productivity, property damage from increased flood risk, and changes in energy system costs, such as reduced costs for heating and increased costs for air conditioning.

With the data available, we are not able to provide quantified health benefit estimates for the reduction in exposure to HAP, ozone, and $PM_{2.5}$ for this rule. This is not to imply that there are no such benefits of the rule; rather, it is a reflection of the difficulties in modeling the direct and indirect impacts of the reductions in emissions for this sector with the data currently available.

Based on the monetized benefits and costs, the annual net benefits of the standards are estimated to be $62 million ($2012) in 2025, based on the average SC-CH_4 at a 3 percent discount rate, average SC-CO_2 at a 3 percent discount rate, and costs at a 7 percent discount rate.

II. General Information

A. Does this action apply to me?

This final rule addresses MSW landfills that are new, reconstructed, or modified after July 17, 2014, and associated solid waste management programs. Potentially affected categories include those listed in Table 1 of this preamble.

TABLE 1—REGULATED ENTITIES

Category	NAICS[a]	Examples of affected facilities
Industry: Air and water resource and solid waste management.	924110	Solid waste landfills
Industry: Refuse systems—solid waste landfills	562212	Solid waste landfills
State, local, and tribal government agencies	924110	Administration of air and water resource and solid waste management programs

[a] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the new subpart. To determine whether your facility would be regulated by this action, you should carefully examine the applicability criteria in final 40 CFR 60.760 of subpart XXX. If you have any questions regarding the applicability of the final subpart to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available through EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this action at *http://www.epa.gov/ttnatw01/landfill/landflpg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final rule and key technical documents at this same Web site.

III. Background

On July 17, 2014, the EPA proposed a new NSPS subpart (40 CFR part 60, subpart XXX) based on its ongoing review of the MSW Landfills NSPS (40 CFR part 60, subpart WWW) (79 FR 41796). On August 27, 2015 (80 FR 52162), the EPA issued a supplemental proposal to achieve additional reductions of LFG and its components, including methane, through a lower emission threshold at which MSW landfills must install and operate a GCCS. On August 27, 2015, the EPA issued a concurrent proposal for revised Emission Guidelines for existing MSW Landfills (80 FR 52100). The EPA considered information it received in response to an Advanced Notice of Proposed Rulemaking (ANPRM) for the MSW landfills Emission Guidelines (79 FR 41772) and a Notice of Proposed Rulemaking for existing landfills (80 FR 52100), in addition to the Notice of

Proposed Rulemaking for new landfills (79 FR 41796), in evaluating these final provisions for new sources.

A. Landfill Gas Emissions and Climate Change

In June 2013, President Obama issued a Climate Action Plan that directed federal agencies to focus on "assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions, and identifying existing authorities and incentive-based opportunities to reduce methane emissions."[4] Methane is a potent greenhouse gas (GHG) that is 28–36 times greater than carbon dioxide (CO_2) and has an atmospheric life of about 12 years.[5] Because of methane's potency as a GHG and its atmospheric life, reducing methane emissions is one of the best ways to achieve near-term beneficial impacts in mitigating global climate change.

The "Climate Action Plan: Strategy to Reduce Methane Emissions"[6] (the Methane Strategy) was released in March 2014. The strategy recognized the methane reductions achieved through the EPA's regulatory and voluntary programs to date. It also directed the EPA to continue to pursue emission reductions through regulatory updates and to encourage LFG energy recovery through voluntary programs.

The EPA recognized the climate benefits associated with reducing methane emissions from landfills nearly 25 years ago. The 1991 NSPS Background Information Document[7] asserted that the reduction of methane emissions from MSW landfills was one of many options available to reduce global warming. The NSPS for MSW landfills, promulgated in 1996, also recognized the climate co-benefits of controlling methane (61 FR 9917, March 12, 1996).

A recent study assessed EPA regulations and voluntary programs over the period 1993–2013 and found that they were responsible for the reduction of about 130 million metric tons of methane emissions (equal to about 18 percent of the total U.S. methane emissions over that time period), leading to a reduction in atmospheric concentrations of methane of about 28 parts per billion in 2013[8] (compared to an observed increase in methane concentrations of about 80 ppb over those 20 years).

The review and final revision of the MSW landfills NSPS capitalizes on additional opportunities to achieve methane reductions while acknowledging historical agency perspectives and research on climate, a charge from the President's Climate Action Plan, the Methane Strategy, and improvements in the science surrounding GHG emissions.

LFG is a collection of air pollutants, including methane and NMOC. LFG is typically composed of 50-percent methane, 50-percent CO_2, and less than 1-percent NMOC by volume. The NMOC portion of LFG can contain various organic HAP and VOC. When the Emission Guidelines and NSPS were promulgated in 1996, NMOC was selected as a surrogate for MSW LFG emissions because NMOC contains the air pollutants that at that time were of most concern due to their adverse effects on health and welfare. Today, methane's effects on climate change are also considered important. In 2014, methane emissions from MSW landfills represented 18.2 percent of total U.S. methane emissions and 1.9 percent of total U.S. GHG emissions (in carbon dioxide equivalent (CO_2e)).[9] In 2014, MSW landfills continued to be the third largest source of human-related methane emissions in the U.S., releasing an estimated 133.1 million metric tons of CO_2e.[10] For these reasons and because additional emissions reductions can be achieved at a reasonable cost, the EPA is finalizing changes to the NSPS that are based on reducing the NMOC and methane components of LFG.

B. What are the public health and welfare effects of landfill gas emissions?

1. Health Effects of VOC and Various Organic HAP

VOC emissions are precursors to both $PM_{2.5}$ and ozone formation. As documented in previous analyses (U.S. EPA, 2006,[11] 2010,[12] and 2014[13]), exposure to $PM_{2.5}$ and ozone is associated with significant public health effects. $PM_{2.5}$ is associated with health effects, including premature mortality for adults and infants, cardiovascular morbidity such as heart attacks, and respiratory morbidity such as asthma attacks, acute bronchitis, hospital admissions and emergency room visits, work loss days, restricted activity days and respiratory symptoms, as well as welfare impacts such as visibility impairment.[14] Ozone is associated with health effects, including hospital and emergency department visits, school loss days and premature mortality, as well as ecological effects (*e.g.,* injury to vegetation and climate change).[15] Nearly 30 organic HAP have been identified in uncontrolled LFG, including benzene, toluene, ethyl benzene, and vinyl chloride.[16] Benzene is a known human carcinogen.

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[4] Executive Office of the President, "The President's Climate Action Plan" June 2013. *https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.*

[5] The IPCC updates GWP estimates with each new assessment report, and in the latest assessment report, AR5, the latest estimate of the methane GWP ranged from 28–36, compared to a GWP of 25 in AR4. The impacts analysis in this final rule is based on AR4 instead of AR5 (*i.e.,* a GWP of 25) to be consistent with and comparable to key Agency emission quantification programs such as the Inventory of Greenhouse Gas Emissions and Sinks (GHG Inventory), and the GHGRP.

[6] Executive Office of the President, "Climate Action Plan Strategy to Reduce Methane", March 2014. *https://www.whitehouse.gov/sites/default/files/strategy_to_reduce_methane_emissions_2014-03-28_final.pdf.*

[7] Air Emissions from Municipal Solid Waste Landfills-Background Information for Proposed Standards and Guidelines, U.S. EPA (EPA–450/3–90–011a) (NTIS PB 91–197061) page 2–15.

[8] Melvin, A.M.; Sarofim, M.C.; Crimmins, A.R., "Climate benefits of U.S. EPA programs and policies that reduced methane emissions 1993–2013", Environmental Science & Technology, 2016, in press. *http://pubs.acs.org/doi/pdf/10.1021/acs.est.6b00367.* DOI 10.1021/acs.est.6b00367.

[9] Total U.S. methane emissions were 731 Teragram (Tg) CO_2e and total U.S. GHG emissions were 6,870.5 Tg in 2014. A teragram is equal to 1 million Mg. (A megagram is also known as a metric ton, which is equal to 1.1 U.S. short tons or about 2,205 pounds.) U.S. EPA "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2014." Table ES–2. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html.*

[10] Ibid, Section 7. Waste, Table 7–3.

[11] U.S. EPA. *RIA. National Ambient Air Quality Standards for Particulate Matter,* Chapter 5. Office of Air Quality Planning and Standards, Research Triangle Park, NC. October 2006. Available on the Internet at *http://www.epa.gov/ttn/ecas/regdata/RIAs/Chapter%205--Benefits.pdf.*

[12] U.S. EPA. *RIA. National Ambient Air Quality Standards for Ozone.* Office of Air Quality Planning and Standards, Research Triangle Park, NC. January 2010. Available on the Internet at *http://www.epa.gov/ttn/ecas/regdata/RIAs/s1-supplemental_analysis_full.pdf.*

[13] U.S. EPA. *RIA. National Ambient Air Quality Standards for Ozone.* Office of Air Quality Planning and Standards, Research Triangle Park, NC. December 2014. Available on the Internet at *http://www.epa.gov/ttnecas1/regdata/RIAs/20141125ria.pdf.*

[14] U.S. EPA. Integrated Science Assessment for Particulate Matter (Final Report). EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. December 2009. Available at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546.*

[15] U.S. EPA. Air Quality Criteria for Ozone and Related Photochemical Oxidants (Final). EPA/600/R–05/004aF–cF. Washington, DC: U.S. EPA. February 2006. Available on the Internet at *http://cfpub.epa.gov/ncea/CFM/recordisplay.cfm?deid=149923.*

[16] U.S. EPA. 1998. Office of Air and Radiation, Office of Air Quality Planning and Standards. "Compilation of Air Pollutant Emission Factors, Fifth Edition, Volume I: Stationary Point and Area Sources, Chapter 2: Solid Waste Disposal, Section 2.4: Municipal Solid Waste Landfills". Available at: *http://www.epa.gov/ttn/chief/ap42/ch02/final/c02s04.pdf.*

2. Climate Impacts of Methane Emissions

In addition to the improvements in air quality and resulting benefits to human health and the non-climate welfare effects discussed above, reducing emissions from landfills is expected to result in climate co-benefits due to reductions of the methane component of LFG. Methane is a potent GHG with a global warming potential (GWP) 28–36 times greater than CO_2, which accounts for methane's stronger absorption of infrared radiation per ton in the atmosphere, but also its shorter lifetime (on the order of 12 years compared to centuries or millennia for CO_2).[17] [18] According to the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report, methane is the second leading long-lived climate forcer after CO_2 globally.[19]

In 2009, based on a large body of robust and compelling scientific evidence, the EPA Administrator issued an Endangerment Finding under CAA section 202(a)(1).[20] In the Endangerment Finding, the Administrator found that the current, elevated concentrations of GHGs in the atmosphere—already at levels unprecedented in human history—may reasonably be anticipated to endanger public health and welfare of current and future generations in the U.S. We summarize these adverse effects on public health and welfare briefly here.

3. Public Health Impacts Detailed in the 2009 Endangerment Finding

The 2009 Endangerment Finding documented that climate change caused by human emissions of GHGs threatens the health of Americans. By raising average temperatures, climate change increases the likelihood of heat waves, which are associated with increased deaths and illnesses. While climate change also increases the likelihood of reductions in cold-related mortality, evidence indicates that the increases in heat mortality will be larger than the decreases in cold mortality in the United States. Compared to a future without climate change, climate change is expected to increase ozone pollution over broad areas of the U.S., including in the largest metropolitan areas with the worst ozone problems, and thereby increase the risk of morbidity and mortality. Climate change is also expected to cause more intense hurricanes and more frequent and intense storms of other types and heavy precipitation, with impacts on other areas of public health, such as the potential for increased deaths, injuries, infectious and waterborne diseases, and stress-related disorders. Children, the elderly, and the poor are among the most vulnerable to these climate-related health effects.

4. Public Welfare Impacts Detailed in the 2009 Endangerment Finding

The 2009 Endangerment Finding documented that climate change impacts touch nearly every aspect of public welfare. Among the multiple threats caused by human emissions of GHGs, climate changes are expected to place large areas of the country at serious risk of reduced water supplies, increased water pollution, and increased occurrence of extreme events such as floods and droughts. Coastal areas are expected to face a multitude of increased risks, particularly from rising sea level and increases in the severity of storms. These communities face storm and flooding damage to property, or even loss of land due to inundation, erosion, wetland submergence and habitat loss.

Impacts of climate change on public welfare also include threats to social and ecosystem services. Climate change is expected to result in an increase in peak electricity demand. Extreme weather from climate change threatens energy, transportation, and water resource infrastructure. Climate change may also exacerbate ongoing environmental pressures in certain settlements, particularly in Alaskan indigenous communities, and is very likely to fundamentally rearrange U.S. ecosystems over the 21st century. Though some benefits may balance adverse effects on agriculture and forestry in the next few decades, the body of evidence points towards increasing risks of net adverse impacts on U.S. food production, agriculture and forest productivity as temperature continues to rise. These impacts are global and may exacerbate problems outside the U.S. that raise humanitarian, trade, and national security issues for the U.S.

5. New Scientific Assessments

In 2009, based on a large body of robust and compelling scientific evidence, the EPA Administrator issued the Endangerment Finding under CAA section 202(a)(1).[21] In the Endangerment Finding, the Administrator found that the current, elevated concentrations of GHGs in the atmosphere—already at levels unprecedented in human history—may reasonably be anticipated to endanger public health and welfare of current and future generations in the U.S. The D.C. Circuit later upheld the Endangerment Finding from all challenges. *Coalition for Responsible Regulation* v. *EPA,* 684 F. 3d 102, 116–26 (D.C. Cir. 2012).

Since the administrative record concerning the Endangerment Finding closed following the EPA's 2010 Reconsideration Denial, the climate has continued to change, with new records being set for a number of climate indicators such as global average surface temperatures, Arctic sea ice retreat, CO_2 concentrations, and sea level rise. Additionally, a number of major scientific assessments have been released that improve understanding of the climate system and strengthen the case that GHGs endanger public health and welfare both for current and future generations. These assessments, from the Intergovernmental Panel on Climate Change (IPCC), the U.S. Global Change Research Program (USGCRP), and the National Research Council (NRC), include: IPCC's 2012 Special Report on Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation (SREX) and the 2013–2014 Fifth Assessment Report (AR5), the USGCRP's 2014 National Climate Assessment, Climate Change Impacts in the United States (NCA3), and the NRC's 2010 Ocean Acidification: A National Strategy to Meet the Challenges of a Changing Ocean (Ocean Acidification), 2011 Report on Climate Stabilization Targets: Emissions, Concentrations, and Impacts over Decades to Millennia (Climate Stabilization Targets), 2011 National Security Implications for U.S. Naval Forces (National Security Implications), 2011 Understanding Earth's Deep Past: Lessons for Our Climate Future

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[17] IPCC, 2013: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[18] Note that this final uses a GWP value for methane of 25 for CO_2 equivalency calculations, consistent with the GHG emissions inventories and the IPCC Fourth Assessment Report.

[19] IPCC, 2013: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[20] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," 74 FR 66496 (Dec. 15, 2009) ("Endangerment Finding").

[21] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," 74 FR 66496 (Dec. 15, 2009) ("Endangerment Finding").

(Understanding Earth's Deep Past), 2012 Sea Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future, 2012 Climate and Social Stress: Implications for Security Analysis (Climate and Social Stress), and 2013 Abrupt Impacts of Climate Change (Abrupt Impacts) assessments.

The conclusions of the recent scientific assessments confirm and strengthen the science that supported the 2009 Endangerment Finding. The NCA3 indicates that climate change "threatens human health and well-being in many ways, including impacts from increased extreme weather events, wildfire, decreased air quality, threats to mental health, and illnesses transmitted by food, water, and disease-carriers such as mosquitoes and ticks."[22] Most recently, the USGCRP released a new assessment, "The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment" (also known as the USGCRP Climate and Health Assessment). This assessment finds that "climate change impacts endanger our health" and that in the United States we have "observed climate-related increases in our exposure to elevated temperatures; more frequent, severe, or longer lasting extreme events; diseases transmitted through food, water, or disease vectors such as ticks and mosquitoes; and stresses to mental health and well-being." The assessment determines that "[e]very American is vulnerable to the health impacts associated with climate change." Climate warming will also likely "make it harder for any given regulatory approach to reduce ground-level ozone pollution", and, unless offset by reductions of ozone precursors, it is likely that "climate-driven increases in ozone will cause premature deaths, hospital visits, lost school days, and acute respiratory symptoms."[23]

Assessments state that certain populations are particularly vulnerable to climate change. The USGCRP Climate and Health Assessment assesses several disproportionately vulnerable populations, including those with low income, some communities of color, immigrant groups, indigenous peoples, pregnant women, vulnerable occupational groups, persons with disabilities, and persons with preexisting or chronic medical conditions. The Climate and Health Assessment also concludes that children's unique physiology and developing bodies contribute to making them particularly vulnerable to climate change. Children also have unique behaviors and exposure pathways that could increase their exposure to environmental stressors, like contaminants in dust or extreme heat events. Impacts from climate change on children are likely from heat waves, air pollution, infectious and waterborne illnesses, disruptions in food safety and security, and mental health effects resulting from extreme weather events. For example, climate change can disrupt food safety and security by significantly reducing food quality, availability and access. Children are more susceptible to this disruption because nutrition is important during critical windows of development and growth. Older people are at much higher risk of mortality during extreme heat events and pre-existing health conditions also make older adults susceptible to cardiac and respiratory impacts of air pollution and to more severe consequences from infectious and waterborne diseases. Limited mobility among older adults can also increase health risks associated with extreme weather and floods.

The new assessments also confirm and strengthen the science that supported the 2009 Endangerment Finding. The NRC assessment Understanding Earth's Deep Past stated that "[b]y the end of this century, without a reduction in emissions, atmospheric CO_2 is projected to increase to levels that Earth has not experienced for more than 30 million years." In fact, that assessment stated that "the magnitude and rate of the present GHG increase place the climate system in what could be one of the most severe increases in radiative forcing of the global climate system in Earth history."[24] Because of these unprecedented changes in atmospheric concentrations, several assessments state that we may be approaching critical, poorly understood thresholds. The NRC Abrupt Impacts report analyzed the potential for abrupt climate change in the physical climate system and abrupt impacts of ongoing changes that, when thresholds are crossed, could cause abrupt impacts for society and ecosystems. The report considered destabilization of the West Antarctic Ice Sheet (which could cause 3–4 m of potential sea level rise) as an abrupt climate impact with unknown but probably low probability of occurring this century. The report categorized a decrease in ocean oxygen content (with attendant threats to aerobic marine life); increase in intensity, frequency, and duration of heat waves; and increase in frequency and intensity of extreme precipitation events (droughts, floods, hurricanes, and major storms) as climate impacts with moderate risk of an abrupt change within this century. The NRC Abrupt Impacts report also analyzed the threat of rapid state changes in ecosystems and species extinctions as examples of an irreversible impact that is expected to be exacerbated by climate change. Species at most risk include those whose migration potential is limited, whether because they live on mountaintops or fragmented habitats with barriers to movement, or because climatic conditions are changing more rapidly than the species can move or adapt. While some of these abrupt impacts may be of low or moderate probability in this century, the probability for a significant change in many of these processes after 2100 was judged to be higher, with severe impacts likely should the abrupt change occur. Future temperature changes will be influenced by what emissions path the world follows. In its high emission scenario, the IPCC AR5 projects that global temperatures by the end of the century will likely be 2.6 °C to 4.8 °C (4.7 to 8.6 °F) warmer than today. There is very high confidence that temperatures on land and in the Arctic will warm even faster than the global average. However, according to the NCA3, significant reductions in emissions would lead to noticeably less future warming beyond mid-century, and therefore less impact to public health and welfare. According to the NCA3, regions closer to the poles are projected to receive more precipitation, while the dry subtropics expand (colloquially, this has been summarized as wet areas getting wet and dry regions getting drier), while "[t]he widespread trend of increasing heavy downpours is expected to continue, with precipitation becoming less frequent but more intense." Meanwhile, the NRC Climate Stabilization Targets assessment found that the area burned by wildfire in parts of western North America is expected to grow by 2 to 4 times for 1 °C (1.8 °F) of warming. The NCA also found that "[e]xtrapolation of the present observed trend suggests an essentially ice-free Arctic in summer before mid-century." Retreating snow and ice, and emissions of carbon dioxide and methane released from thawing permafrost, are very likely to amplify future warming.

Since the 2009 Endangerment Finding, the IPCC AR5, the USGCRP

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[22] USGCRP, Third National Climate Assessment, p. 221.

[23] See also Kleeman, M.J., S.-H. Chen, and R.A. Harley. 2010. Climate change impact on air quality in California: Report to the California Air Resources Board. *http://www.arb.ca.gov/research/apr/past/04-349.pdf.*

[24] National Research Council, Understanding Earth's Deep Past, p. 138.

NCA3, and three of the new NRC assessments provide estimates of projected global average sea level rise. These estimates, while not always directly comparable as they assume different emissions scenarios and baselines, are at least 40 percent larger than, and in some cases more than twice as large as, the projected rise estimated in the IPCC AR4 assessment, which was referred to in the 2009 Endangerment Finding. The NRC Sea Level Rise assessment projects a global average sea level rise of 0.5 to 1.4 meters by 2100. The NRC National Security Implications assessment suggests that "the Department of the Navy should expect roughly 0.4 to 2 meters global average sea-level rise by 2100." The NRC Climate Stabilization Targets assessment states that a global average temperature increase of 3 °C will lead to a global average sea level rise of 0.5 to 1 meter by 2100. These NRC and IPCC assessments continue to recognize and characterize the uncertainty inherent in accounting for melting ice sheets in sea level rise projections.

In addition to future impacts, the NCA3 emphasizes that climate change driven by human emissions of GHGs is already happening now and it is happening in the U.S. According to the IPCC AR5 and the NCA3, there are a number of climate-related changes that have been observed recently, and these changes are projected to accelerate in the future:

- The planet warmed about 0.85 °C (1.5 °F) from 1880 to 2012. It is extremely likely (>95 percent probability) that human influence was the dominant cause of the observed warming since the mid-20th century, and likely (>66 percent probability) that human influence has more than doubled the probability of occurrence of heat waves in some locations. In the Northern Hemisphere, the last 30 years were likely the warmest 30 year period of the last 1400 years.
- Global sea levels rose 0.19 m (7.5 inches) from 1901 to 2010. Contributing to this rise was the warming of the oceans and melting of land ice. It is likely that 275 gigatons per year of ice melted from land glaciers (not including ice sheets) since 1993, and that the rate of loss of ice from the Greenland and Antarctic ice sheets increased substantially in recent years, to 215 gigatons per year and 147 gigatons per year respectively since 2002. For context, 360 gigatons of ice melt is sufficient to cause global sea levels to rise 1 mm.
- Annual mean Arctic sea ice has been declining at 3.5 to 4.1 percent per decade, and Northern Hemisphere snow cover extent has decreased at about 1.6 percent per decade for March and 11.7 percent per decade for June.
- Permafrost temperatures have increased in most regions since the 1980s, by up to 3 °C (5.4 °F) in parts of Northern Alaska.
- Winter storm frequency and intensity have both increased in the Northern Hemisphere. The NCA3 states that the increases in the severity or frequency of some types of extreme weather and climate events in recent decades can affect energy production and delivery, causing supply disruptions, and compromise other essential infrastructure such as water and transportation systems.

In addition to the changes documented in the assessment literature, there have been other climate milestones of note. According to the National Oceanic and Atmospheric Administration (NOAA), methane concentrations in 2014 were about 1,823 parts per billion, 150 percent higher than concentrations were in 1750. After a few years of nearly stable concentrations from 1999 to 2006, methane concentrations have resumed increasing at about 5 parts per billion per year.[25] Concentrations today are likely higher than they have been for at least the past 800,000 years.[26] Arctic sea ice has continued to decline, with September of 2012 marking the record low in terms of Arctic sea ice extent, 40 percent below the 1979–2000 median. Sea level has continued to rise at a rate of 3.2 mm per year (1.3 inches/decade) since satellite observations started in 1993, more than twice the average rate of rise in the 20th century prior to 1993.[27] And 2015 was the warmest year globally in the modern global surface temperature record, going back to 1880, breaking the record previously held by 2014; this now means that the last 15 years have been 15 of the 16 warmest years on record.[28]

These assessments and observed changes raise concerns that reducing emissions of GHGs across the globe is necessary in order to avoid the worst impacts of climate change, and underscore the urgency of reducing emissions now. In 2011 the NRC Committee on America's Climate Choices listed a number of reasons "why it is imprudent to delay actions that at least begin the process of substantially reducing emissions." [29] For example, they stated:

- The faster emissions are reduced, the lower the risks posed by climate change. Delays in reducing emissions could commit the planet to a wide range of adverse impacts, especially if the sensitivity of the climate to GHGs is on the higher end of the estimated range.
- Waiting for unacceptable impacts to occur before taking action is imprudent because the effects of GHG emissions do not fully manifest themselves for decades and, once manifested, many of these changes will persist for hundreds or even thousands of years.
- In the committee's judgment, the risks associated with doing business as usual are a much greater concern than the risks associated with engaging in strong response efforts.

Overview of Climate Change Impacts in the United States

The NCA3 assessed the climate impacts in eight regions of the U.S., noting that changes in physical climate parameters such as temperatures, precipitation, and sea ice retreat were already having impacts on forests, water supplies, ecosystems, flooding, heat waves, and air quality. The U.S. average temperatures have similarly increased by 1.3 to 1.9 degrees F since 1895, with most of that increase occurring since 1970, and the most recent decade was the U.S.'s hottest as well as the world's hottest. Moreover, the NCA3 found that future warming is projected to be much larger than recent observed variations in temperature, with 2 to 4 degrees F warming expected in most areas of the U.S. over the next few decades, and up to 10 degrees F possible by the end of the century assuming continued increases in emissions. Extreme heat events will continue to become more common, and extreme cold less common. Additionally, precipitation is considered likely to increase in the northern states, decrease in the southern states, and with the heaviest precipitation events projected to increase everywhere.

In the Northeast, temperatures increased almost 2 °F from 1895 to 2011, precipitation increased by about 5 inches (10 percent), and sea level rise of about a foot has led to an increase in coastal flooding. In the future, if emissions continue to increase, the Northeast is projected to experience 4.5 to 10 °F of warming by the 2080s. This is expected to lead to more heat waves, coastal and river flooding, and intense precipitation events. Sea levels in the Northeast are expected to increase faster than the global average because of subsidence, and models suggest changing ocean currents may further increase the rate of sea level rise.

In the Southeast, average annual temperature during the last century cycled between warm and cool periods. A warm peak occurred during the 1930s and 1940s followed by a cool period and temperatures then increased again from 1970 to the present by an average of 2 °F. Louisiana has already lost 1,880 square miles of land in the last 80 years due to sea level rise and other contributing factors. The Southeast is exceptionally vulnerable to sea level rise, extreme heat events, hurricanes, and decreased water availability. Major risks of further warming include significant increases in the number of hot days (95 °F or above) and decreases in freezing events, as well as exacerbated ground level ozone in urban areas. Projections suggest that there may be fewer hurricanes in the Atlantic in the future, but they will be more intense, with more Category 4 and 5 storms. The NCA identified New Orleans, Miami, Tampa, Charleston, and Virginia Beach as cities at particular risk of flooding.

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[25] Ed Dlugokencky, NOAA/ESRL (*www.esrl.noaa.gov/gmd/ccgg/trends_ch4/*).

[26] U.S. Environmental Protection Agency. 2014. Climate change indicators in the United States,2014. Third edition. EPA 430–R–14–004. *www.epa.gov/climatechange/indicators.*

[27] Blunden, J., and D.S. Arndt, Eds., 2015: State of the Climate in 2014. Bull. Amer. Meteor. Soc., 96 (7), S1–S267.

[28] *http://www.ncdc.noaa.gov/sotc/global/201513.*

[29] NRC, 2011: America's Climate Choices, The National Academies Press, p. 2.

In the Northwest, temperatures increased by about 1.3 °F between 1895 and 2011. Snowpack in the Northwest is an important freshwater source for the region. More precipitation falling as rain instead of snow has reduced the snowpack, and warmer springs have corresponded to earlier snowpack melting and reduced stream flows during summer months. Drier conditions have increased the extent of wildfires in the region. Average annual temperatures are projected to increase by 3.3 °F to 9.7 °F by the end of the century (depending on future global GHG emissions), with the greatest warming is expected during the summer. Continued increases in global GHG emissions are projected to result in up to a 30 percent decrease in summer precipitation. Warmer waters are expected to increase disease and mortality in important fish species, including Chinook and sockeye salmon.

In Alaska, temperatures have changed faster than anywhere else in the U.S. Annual temperatures increased by about 3 °F in the past 60 years. Warming in the winter has been even greater, rising by an average of 6 °F. Glaciers in Alaska are melting at some of the fastest rates on Earth. Permafrost soils are also warming and beginning to thaw. Drier conditions had already contributed to more large wildfires in the 10 years prior to the NCA3 than in any previous decade since the 1940s, when recordkeeping began, and subsequent years have seen even more wildfires. By the end of this century, continued increases in GHG emissions are expected to increase temperatures by 10 to 12 °F in the northernmost parts of Alaska, by 8 to 10 °F in the interior, and by 6 to 8 °F across the rest of the state. These increases will exacerbate ongoing arctic sea ice loss, glacial melt, permafrost thaw and increased wildfire, and threaten humans, ecosystems, and infrastructure.

In the Southwest, temperatures are now about 2 °F higher than the past century, and are already the warmest that region has experienced in at least 600 years. The NCA notes that there is evidence that climate-change induced warming on top of recent drought has influenced tree mortality, wildfire frequency and area, and forest insect outbreaks. At the time of publication of the NCA, even before the last 2 years of extreme drought in California, tree ring data was already indicating that the region might be experiencing its driest period in 800 years. The Southwest is projected to warm an additional 5.5 to 9.5 °F over the next century if emissions continue to increase. Winter snowpack in the Southwest is projected to decline (consistent with recent record lows), reducing the reliability of surface water supplies for cities, agriculture, cooling for power plants, and ecosystems. Sea level rise along the California coast is projected to worsen coastal erosion, increase flooding risk for coastal highways, bridges, and low-lying airports, and pose a threat to groundwater supplies in coastal cities. Also, "[t]he combination of a longer frost-free season, less frequent cold air outbreaks, and more frequent heat waves accelerates crop ripening and maturity, reduces yields of corn, tree fruit, and wine grapes, stresses livestock, and increases agricultural water consumption." Increased drought, higher temperatures, and bark beetle outbreaks are likely to contribute to continued increases in wildfires.

The rate of warming in the Midwest has markedly accelerated over the past few decades. Temperatures rose by more than 1.5 °F from 1900 to 2010, but between 1980 and 2010 the rate of warming was three times faster than from 1900 through 2010. Precipitation generally increased over the last century, with much of the increase driven by intensification of the heaviest rainfalls. Several types of extreme weather events in the Midwest (*e.g.*, heat waves and flooding) have already increased in frequency and/or intensity due to climate change. In the future, if emissions continue increasing, the Midwest is expected to experience 5.6 to 8.5 °F of warming by the 2080s, leading to more heat waves. Specific vulnerabilities highlighted by the NCA include long-term decreases in agricultural productivity, changes in the composition of the region's forests, increased public health threats from heat waves and degraded air and water quality, negative impacts on transportation and other infrastructure associated with extreme rainfall events and flooding, and risks to the Great Lakes including shifts in invasive species, increases in harmful algal blooms, and declining beach health.

High temperatures (more than 100 °F in the Southern Plains and more than 95 °F in the Northern Plains) are projected to occur much more frequently by mid-century. Increases in extreme heat will increase heat stress for residents, energy demand for air conditioning, and water losses. In Hawaii, other Pacific islands, and the Caribbean, rising air and ocean temperatures, shifting rainfall patterns, changing frequencies and intensities of storms and drought, decreasing base flow in streams, rising sea levels, and changing ocean chemistry will affect ecosystems on land and in the oceans, as well as local communities, livelihoods, and cultures. Low islands are particularly at risk.

In Hawaii and the Pacific islands, "[w]armer oceans are leading to increased coral bleaching events and disease outbreaks in coral reefs, as well as changed distribution patterns of tuna fisheries. Ocean acidification will reduce coral growth and health. Warming and acidification, combined with existing stresses, will strongly affect coral reef fish communities." For Hawaii and the Pacific islands, future sea surface temperatures are projected to increase 2.3 °F by 2055 and 4.7 °F by 2090 under a scenario that assumes continued increases in emissions.

Methane Specific Impacts. Methane is also a precursor to ground-level ozone, which can cause a number of harmful effects on public health and the environment. Additionally, ozone is a short-lived climate forcer that contributes to global warming. In remote areas, methane is an important precursor to tropospheric ozone formation.[30] Almost half of the global annual mean ozone increase since preindustrial times is believed to be due to anthropogenic methane.[31] Projections of future emissions also indicate that methane is likely to be a key contributor to ozone concentrations in the future.[32] Unlike nitrogen oxide (NO_X) and VOC, which affect ozone concentrations regionally and at hourly time scales, methane emissions affect ozone concentrations globally and on decadal time scales given methane's relatively long atmospheric lifetime compared to these other ozone precursors.[33] Reducing methane emissions, therefore, may contribute to efforts to reduce global background ozone concentrations that contribute to the incidence of ozone-related health effects.[34] [35] [36] These benefits are global and occur in both urban and rural areas.

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[30] U.S. EPA. 2013. "Integrated Science Assessment for Ozone and Related Photochemical Oxidants (Final Report)." EPA–600–R–10–076F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/*.

[31] *Ibid.*

[32] *Ibid.*

C. What is the EPA's authority for reviewing the NSPS?

Section 111 of the Clean Air Act (CAA) requires the EPA Administrator to list categories of stationary sources that in the Administrator's judgment cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. 7411(b)(1)(A). The EPA must then issue performance standards for new (and modified or reconstructed) sources in each source category. 42 U.S.C. 7411(b)(1)(B). These standards are referred to as new source performance standards or NSPS. The EPA has the authority to define the scope of the source categories, determine the pollutants for which standards should be developed, set the emission level of the standards, and distinguish among classes, type and sizes within categories in establishing the standards. 42 U.S.C. 7411(b).

On March 12, 1996 (61 FR 9905), under the authority of CAA section 111(b)(1)(A), the EPA added the MSW landfills source category to the priority list in 40 CFR 60.16 because, in the judgment of the Administrator, the source category contributes significantly to air pollution that may reasonably be anticipated to endanger public health and welfare. In that same notice, the EPA promulgated new source performance standards, which apply to new (and modified or reconstructed) landfills under the authority of CAA section 111(b)(1)(B), and emission guidelines, which apply to existing landfills, under the authority of CAA section 111(d). In the March 12, 1996 notice, the EPA defined the MSW landfills source category, identified municipal solid waste landfill emissions (commonly referred to as landfill gas) as the pollutant for which standards should be developed, identified which landfills would be covered, and determined the applicability threshold and emission level of the standards.

CAA section 111(a)(1) (42 U.S.C. 7411(a)(1)) provides that standards of performance are to "reflect the degree of emission limitation achievable through the application of the best system of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." We refer to this level of control as the best system of emission reduction or BSER. When promulgated in 1996, BSER for MSW landfills was determined to be a well-designed and well-operated LFG collection and control system with a control device capable of reducing NMOC by 98 percent by weight. NMOC was established as a surrogate for LFG in the final rule.

The CAA also requires the EPA to review the NSPS at least every 8 years to determine if the level of control that was previously established remains appropriate. Specifically, CAA section 111(b)(1)(B) (42 U.S.C. 7411(b)(1)(B)) requires the EPA to "at least every 8 years review and, if appropriate, revise" standards of performance. The Administrator need not review a standard, however, if the "Administrator determines that such review is not appropriate in light of readily available information on the efficacy" of the standard. While not required to do so, the EPA has authority to revise an NSPS to add emission limits for pollutants or emission sources not currently concurrent with its review of the NSPS (77 FR 49494, August 16, 2012).

In determining BSER, we typically conduct a review that identifies what emission reduction systems exist and how much they reduce air pollution in practice. Next, for each control system identified, we evaluate its costs, energy requirements, and any nonair quality health and environmental impacts. Based on our evaluation, we determine BSER for each pollutant to be regulated and establish an appropriate standard of performance based on the identified BSER. The resultant standard is usually expressed either as a numerical emissions limit, *e.g.*, ppm or pounds per million British thermal unit (lb/MMBtu), or a percent reduction requirement. Although the standards are based on the identified BSER, the EPA may not require the use of a particular technology to comply with a performance standard unless the Administrator determines that it is not feasible to prescribe or enforce a standard of performance. (CAA 111(b)(5), 42 U.S.C. 7411(b)(5).) Thus, except in rare circumstances, sources remain free to select any control measures that will meet the requirements of the standard(s). Upon promulgation, an NSPS becomes a national standard with which all new, reconstructed, and modified sources must comply. (CAA 111(e), 42 U.S.C. 7411(e).)

D. What is the purpose and scope of this action?

The purpose of this action is to (1) Present the results of the EPA's review of the MSW landfills NSPS, (2) finalize revisions to the NSPS based on that review, and (3) resolve or clarify several implementation issues that were addressed in prior proposed amendments published on May 23, 2002 (67 FR 36475) and September 8, 2006 (71 FR 53271) as they apply to new, modified, or reconstructed sources. The final revisions appear in 40 CFR part 60, subpart XXX.[37] Although the EPA is not required to respond to comments received on the July 17, 2014, ANPRM (79 FR 41772) for the MSW landfills Emission Guidelines or comments it received on the concurrent proposal for revised Emission Guidelines for existing MSW landfills, in this document, the EPA is summarizing several comments it received to provide a framework and support the rationale for the final revisions to the NSPS.

E. How would the changes in applicability affect sources currently subject to subparts Cc and WWW?

Landfills currently subject to 40 CFR part 60, subparts Cc and WWW are considered "existing" with the promulgation of this new NSPS subpart XXX and are not affected by any changes to the NSPS resulting from this review. Each MSW landfill for which construction, modification, or reconstruction commenced on or before July 17, 2014, the date of proposal of the standard for new landfill under subpart XXX, is an existing source. Under section 111, a source is either new, *i.e.*, construction, modification, or reconstruction commenced after a proposed NSPS is published in the **Federal Register** (CAA section 111(a)(1)) or existing, *i.e.*, any source other than a new source (CAA section 111(a)(6)). Since the revised NSPS apply to new (and modified or reconstructed) sources, any source that is not subject to subpart XXX will be subject to the revised Emission Guidelines found in 40 CFR part 60, subpart Cf. Any existing MSW landfill that modifies or reconstructs after July 17, 2014 would become a new source subject to the NSPS subpart XXX.

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[33] *Ibid.*

[34] West, J.J., Fiore, A.M. 2005. "Management of tropospheric ozone by reducing methane emissions." *Environ. Sci. Technol.* 39:4685–4691.

[35] Anenberg, S.C., et al. 2009. "Intercontinental impacts of ozone pollution on human mortality," *Environ. Sci. & Technol.* 43: 6482–6487.

[36] Sarofim, M.C., Waldhoff, S.T., Anenberg, S.C. 2015. "Valuing the Ozone-Related Health Benefits of Methane Emission Controls," Environ. Resource Econ. DOI 10.1007/s10640–015–9937–6.

[37] Rather than merely updating 40 CFR part 60, subpart WWW, the existing NSPS, the EPA has determined that the most appropriate way to proceed is to establish a new subpart that includes both the verbatim restatement of certain provisions in the existing NSPS and revisions to, or the addition of, other provisions.

IV. Summary of the Final NSPS

A. What are the control requirements?

1. Design Capacity and Emissions Thresholds

The revised NSPS retain the current design capacity threshold of 2.5 million Mg and 2.5 million m^3, but reduce the NMOC emission threshold for the installation and removal of a GCCS from 50 Mg/yr to 34 Mg/yr for landfills that commence construction, reconstruction, or modification after July 17, 2014. An MSW landfill that exceeds the design capacity threshold must install and start up a GCCS within 30 months after LFG emissions reach or exceed an NMOC level of 34 Mg/yr NMOC. The owner or operator of a landfill may control the gas by routing it to a non-enclosed flare, an enclosed combustion device, or a treatment system that processes the collected gas for subsequent sale or beneficial use.

2. Tier 4

The current NSPS (40 CFR part 60, subpart WWW) provides that owners or operators determine whether the landfill has exceeded the NMOC emissions threshold using one of three available modeling approaches, known as Tiers 1, 2 and 3. The EPA is finalizing in subpart XXX an additional optional methodology based on site-specific surface methane emissions to determine when a landfill must install and operate a GCCS. This alternative emission threshold methodology, referred to as "Tier 4," is based on SEM and demonstrates that surface methane emissions are below a specific threshold. The Tier 4 SEM demonstration allows certain landfills that exceed modeled NMOC emission rate thresholds using Tier 1 or 2 to demonstrate that site-specific surface methane emissions are below a surface concentration threshold. A landfill that can demonstrate that surface emissions are below 500 ppm for four consecutive quarters does not trigger the requirement to install a GCCS even if Tier 1, 2, or 3 calculations indicate that the 34 Mg/yr threshold has been exceeded. Owners or operators continue to keep detailed records of each quarterly monitoring demonstration and must submit a Tier 4 surface emissions report annually. Upon a surface emissions reading of greater than 500 ppm methane, the landfill must submit a GCCS design plan and install and operate a GCCS.

Tier 4 is based on the results of quarterly site-specific methane emissions monitoring of the perimeter of the landfill and entire surface of the landfill along a pattern that traverses the landfill at 30-meter (98-ft) intervals, in addition to monitoring areas where visual observations may indicate elevated concentrations of LFG, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. If the landfill opts to use Tier 4 and there is any measured concentration of methane of 500 ppm or greater from the surface of the landfill, the owner or operator must install a GCCS, and the landfill cannot return to Tier 1, 2, or 3 modeling to demonstrate that emissions are below the NMOC threshold.

Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr, but less than 50 Mg/yr using Tier 1 or Tier 2. If both Tier 1 and Tier 2 indicate NMOC emissions of 50 Mg/yr or greater, Tier 4 cannot be used (a landfill need not model emissions under Tier 3 before using Tier 4). In order to verify that the landfill is eligible for Tier 4, the EPA is finalizing a provision to require landfill owners or operators that choose to use Tier 4 to continue to conduct Tier 1 and Tier 2 NMOC emission rate calculations and report results in the annual report.

In addition, the EPA is finalizing specific requirements for the use of Tier 4 for emission threshold determinations related to wind speed. Since accurate measurements can be compromised in even moderately windy conditions, the EPA is requiring the owner or operator to use a wind barrier, similar to a funnel or other device, to minimize surface air turbulence when onsite wind speed exceeds the limits in the rule. Thus, when a wind barrier is used, the final rule allows the Tier 4 surface emissions demonstration to proceed when the average on-site wind speed exceeds 4 mph, or gusts exceed 10 mph. Tier 4 measurements cannot be conducted if the average wind speed exceeds 25 mph. Although we are aware of the use of wind barriers in the field, the EPA intends to provide additional guidance on their use. In addition, the owner or operator must take digital photographs of the instrument setup, including the wind barrier. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration. The owner or operator must maintain those photographs per the recordkeeping requirements. Wind speed must be measured with an on-site anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The average wind speed must be determined at 5-minute intervals. The gust must be determined at 3-second intervals. Further, when taking surface measurements, the sampling probe must be held no more than 5 centimeters above the landfill surface (*e.g.*, using a mechanical device such as a wheel on a pole).

The EPA is also limiting the use of Tier 4 at landfills with a GCCS installed. In order for a landfill with an operational GCCS to qualify for Tier 4, the GCCS must have operated for at least 75 percent of the 12 months prior to initiating Tier 4 testing. The EPA is finalizing reporting and recordkeeping requirements for the annual operating hours of destruction devices in order to verify that a landfill with a GCCS installed and opting for Tier 4 meets the GCCS criteria for having operated the system.

The EPA is also finalizing reporting and recordkeeping requirements to improve the transparency of SEM testing. To ensure that a GCCS is installed in a timely manner, the EPA is requiring a GCCS to be installed and operated within 30 months of the most recent NMOC emission rate report in which the calculated NMOC emission rate equals or exceeds 34 Mg/yr according to Tier 2, once there is any measured concentration of methane of 500 ppm or greater from the surface of the landfill. To improve the transparency of SEM testing, landfill owners or operators must notify the delegated authority 30 days prior to conducting Tier 4 tests and maintain records of all SEM monitoring data and calibrations.

3. Criteria for Removing GCCS

Landfill emissions increase as waste is added to a landfill, but decline over time; as waste decays, a landfill produces less and less methane and other pollutants. In the proposed revisions to the NSPS (79 FR 41811), the EPA requested comment on whether the three criteria for control device removal in 40 CFR part 60, subpart WWW were appropriate for proposed 40 CFR part 60, subpart XXX, and whether alternative criteria such as consecutive quarterly measurements below a surface emission threshold should also be considered. Additionally, in the proposed revisions to the Emission Guidelines (80 FR 52112), the EPA recognized that many open landfills subject to control requirements contain inactive areas that have experienced declining LFG flows. The EPA is finalizing criteria for determining when it is appropriate to cap, remove, or decommission a portion of the GCCS. The criteria for capping, removing, or decommissioning the GCCS are: (1) The landfill is closed, (2) the calculated NMOC emission rate at the landfill is less than 34 Mg/yr on three successive test dates, and (3) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows.

4. Excluding Non-Productive Areas From Control

In the proposed revisions to the NSPS (79 FR 41817), the EPA recognized that there are situations in which the quantity of gas production has greatly declined in separate closed areas of some landfills, and the methane content has fallen such that the area is producing insufficient gas to properly operate a GCCS and control device. Thus, the EPA is finalizing a provision that allows the use of actual flow data when estimating NMOC emissions for the purposes of excluding low- or non-productive areas of the landfill from control. To determine whether NMOC emissions from non-productive areas of the landfill are less than 1 percent of the total landfill NMOC emissions (and hence controls are not required), subpart WWW relies on modeled (calculated) NMOC rates (see 40 CFR 60.759(a)(3)(ii)). To refine the measurements of these non-productive areas, subpart XXX (40 CFR 60.769(a)(3)(ii)) allows owners or operators of landfills with physically separated, closed areas to either model NMOC emission rates, or determine the flow rate of LFG using actual measurements, to determine NMOC emissions. Using actual flow measurements yields a more precise measurement of NMOC emissions for purposes of demonstrating the closed area represents less than 1 percent of the landfill's total NMOC emissions. The NSPS has historically allowed owners or operators to exclude from control areas that are non-productive. In the final rule, the retained the 1 percent criteria level, rather than raising it, to prevent landfills from excluding areas from control unless emissions were very low. But, to help owners or operators demonstrate that a non-productive area may be excluded from control, the final rule allows the owner or operator to use site-specific flow measurements to determine NMOC emissions.

5. Landfill Gas Treatment

The EPA is finalizing two provisions related to LFG treatment. First, the EPA is clarifying that the use of treated LFG is not limited to use as a fuel for a stationary combustion device but also allows other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, and use as a raw material in a chemical manufacturing process. Second, the EPA is defining "treated landfill gas" as LFG processed in a treatment system meeting the requirements in 40 CFR part 60, subpart XXX and defining "treatment system" as a system that filters, de-waters, and compresses LFG for sale or beneficial use. Owners or operators must develop a site-specific treatment system monitoring plan that includes monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for each intended end use of the treated LFG. They also must keep records that demonstrate that such parameters effectively monitor filtration, de-watering, and compression system performance necessary for each end use of the treated LFG. The treatment system monitoring plan must be submitted as part of the landfill's Title V permit application. The permitting authority will review the permit application, including the treatment system monitoring plan, as part of the general permitting process. The treatment system monitoring parameters would be included in the permit as applicable requirements and thus become enforceable conditions (*i.e.,* the landfill monitors the treatment system monitoring parameters and maintains them in the specified range).

B. What are the monitoring, recordkeeping, and reporting requirements?

1. Wellhead Monitoring

The operational standard, corrective action, and corresponding recordkeeping and reporting remain for temperature and maintaining negative pressure at the wellhead. The EPA is removing the operational standards (*i.e.,* the requirement to meet operating limits) for nitrogen/oxygen at the wellheads. Thus, the EPA is removing the corresponding requirement to take corrective action for exceedances of nitrogen/oxygen at the wellheads. These adjustments to the wellhead monitoring parameters apply to all landfills. Although landfill owners or operators are not required to take corrective action based on exceedances of nitrogen/oxygen levels at wellheads, they are required to monitor and maintain records of nitrogen/oxygen levels at wellheads on a monthly basis to inform any necessary adjustments to the GCCS and must maintain records of all monthly readings. The landfill owner or operator must make these records available to the Administrator (EPA Administrator or administrator of a state air pollution control agency or his or her designee) upon request.

2. Surface Monitoring

The EPA is finalizing the proposed requirement to monitor all surface penetrations. Landfills must conduct SEM at all cover penetrations and openings within the area of the landfill where waste has been placed and a GCCS is required to be in place and operating according to the operational standards in 40 CFR part 60, subpart XXX. Specifically, landfill owners or operators must conduct surface monitoring on a quarterly basis around the entire perimeter of the collection area, and along a pattern that traverses the landfill at no more than 30-meter intervals, at all cover penetrations, and where visual observations may indicate elevated concentrations of LFG, such as distressed vegetation and cracks or seeps in the cover. Cover penetrations include wellheads, but do not include items such as survey stakes, fencing or litter fencing, flags, signs, trees, and utility poles.

3. Corrective Action

The owner or operator must measure the LFG temperature at the wellhead and gauge pressure in the gas collection header applied to each individual well on a monthly basis. If there is an exceedance (*i.e.,* LFG temperature of 55 degrees Celsius (131 degrees Fahrenheit) or positive pressure), the owner or operator must initiate corrective action within 5 days. If the temperature exceedance or negative pressure cannot be achieved within 15 days, then the owner or operator must determine the appropriate corrective action by conducting a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after the first measurement of the temperature exceedance or positive pressure. For corrective action that takes longer than 60 days to fully implement, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule for the corrective action that does not exceed 120 days. The owner or operator must also notify the Administrator of any corrective action exceeding 60 days within 75 days and also include a description of the root cause analysis, corrective action analysis and implementation schedule in the annual report. If corrective action is expected to take longer than 120 days after the initial exceedance, the owner or operator must submit the corrective action plan and corresponding implementation timeline to the Administrator for approval within 75 days of the first measurement of positive pressure. Owners or operators must keep records of corrective action analyses. Owners or operators must include corrective action records in the annual compliance report for corrective actions that take greater than 60 days to implement.

4. Update and Approval of Design Plan

The EPA is reaffirming some requirements and revising others to address design plans. Design plans must continue to be prepared and approved by a professional engineer. The landfill owner or operator must then notify the Administrator that the plan is completed and provide a copy of the plan's signature page. The Administrator will now have 90 days to make a decision about whether the plan should be submitted for review. If the Administrator chooses to review, the approval process continues at outlined in this section. However, if the Administrator indicates that submission is not required or doesn't respond within 90 days, the landfill owner or operator can continue to implement the plan with the recognition that they are proceeding at their own risk. In the event that the design plan is required to be modified to obtain approval, the owner/operator must take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action.

The EPA is also finalizing two criteria for when an affected source must update its design plan and submit it to the Administrator for approval. A revised design plan must be submitted on the following timeline: (1) Within 90 days of expanding operations to an area not covered by the previously approved design plan; and (2) prior to installing or expanding the gas collection system in a manner other than the one described in the previous design plan. The final rule continues to require landfill owners or operators to prepare both an initial and revised design plan.

5. Electronic Reporting

The EPA is requiring owners or operators of new or modified MSW Landfills to submit electronic copies of certain required performance test reports, NMOC emission rate reports, annual reports, Tier 4 emission rate reports, and wet landfilling practices through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). Owners or operators are allowed to maintain electronic copies of the records in lieu of hardcopies to satisfy federal recordkeeping requirements.

The requirement to submit performance test data electronically to the EPA applies only to those performance tests conducted using test methods that are supported by the Electronic Reporting Tool (ERT). A listing of the pollutants and test methods supported by the ERT is available at: *www3.epa.gov/ttn/chief/ert/ert_info.html.* When the EPA adds new methods to the ERT, a notice will be sent out through the Clearinghouse for Inventories and Emissions Factors (CHIEF) Listserv (*www.epa.gov/air-emissions-inventories/emissions-inventory-listservs*) and a notice of availability will be added to the ERT Web site. You are encouraged to check the ERT Web site regularly for up-to-date information on methods supported by the ERT.

The EPA believes that the electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability, will further assist in the protection of public health and the environment and will ultimately result in less burden on the regulated community. Electronic reporting can also eliminate paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors and providing data quickly and accurately to the affected facilities, air agencies, the EPA and the public.

The EPA Web site that stores the submitted electronic data, WebFIRE, will be easily accessible to everyone and will provide a user-friendly interface that any stakeholder could access. By making the records, data, and reports addressed in this rulemaking readily available, the EPA, the regulated community, and the public will benefit when the EPA conducts its CAA-required reviews. As a result of having reports readily accessible, our ability to carry out comprehensive reviews will be increased and achieved within a shorter period of time.

We anticipate fewer or less substantial information collection requests (ICRs) in conjunction with prospective CAA-required reviews may be needed. Under an electronic reporting system, the EPA would have air emissions and performance test data in hand; we would not have to collect these data from the regulated industry. The data would provide useful information on actual emissions, types of controls in place, locations of facilities, and other data that the EPA uses in conducting required reviews or future assessments. We expect this to result in a decrease in time spent by industry to respond to data collection requests. We also expect the ICRs to contain less extensive stack testing provisions, as we will already have stack test data electronically. Reduced testing requirements would be a cost savings to industry. The EPA should also be able to conduct these required reviews more quickly. While the regulated community may benefit from a reduced burden of ICRs, the general public benefits from the agency's ability to provide these required reviews more quickly, resulting in increased public health and environmental protection.

Air agencies could benefit from more streamlined and automated review of the electronically submitted data. Having reports and associated data in electronic format will facilitate review through the use of software "search" options, as well as the downloading and analyzing of data in spreadsheet format. The ability to access and review air emission report information electronically will assist air agencies to more quickly and accurately determine compliance with the applicable regulations, potentially allowing a faster response to violations which could minimize harmful air emissions. This benefits both air agencies and the general public.

For a more thorough discussion of electronic reporting required by this rule, see the discussion in the 2014 proposed NSPS (79 FR 41818) and the 2015 proposed Emission Guidelines (80 FR 52127). In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, air agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories and air quality regulations and enhancing the public's access to this important information.

6. Landfills Recirculating Leachate or Adding Other Liquids

In the 2014 ANPRM and 2015 proposed Emission Guidelines, the EPA solicited input on whether additional action should be taken to address emissions from wet landfills. As discussed in section VI.A.3 of this preamble, there were a wide variety of perspectives provided in the public comments, and while many commenters supported separate thresholds for wet landfills, the EPA did not receive sufficient data to support a separate subcategory for landfills adding leachate or other liquids. In addition, the EPA has several other pending regulatory actions that could affect wet landfills. Accordingly, the EPA believes it is appropriate to further assess emissions from wet landfills prior to taking additional action. Therefore, the EPA is finalizing electronic reporting of additional data elements, as discussed in Section V.A.2 of this preamble, to inform potential action on wet landfills in the future.

C. Startup, Shutdown, and Malfunction Provisions

The standards in 40 CFR part 60, subpart XXX apply at all times, including periods of startup or shutdown, and periods of malfunction. The EPA is reaffirming the work practice standard that is applicable during SSM events wherein the landfill owner or operator is required to shut down the gas mover system and close all valves in the collection and control system potentially contributing to the venting of the gas to the atmosphere within 1 hour of the collection or control system not operating. The landfill owner or operator must also keep records and submit reports of all periods when the collection and control device is not operating.

D. Other Corrections and Clarifications

The EPA is finalizing the following clarifications and corrections to subpart XXX, which are consistent with the May 23, 2002 and September 8, 2006 proposed amendments to subpart WWW.

Consistent with the May 23, 2002 and September 8, 2006 proposed amendments, the EPA is finalizing language in subpart XXX to exempt owners/operators of boilers and process heaters with design capacities of 44 megawatts or greater from the requirement to conduct an initial performance test (40 CFR 60.762(b)(2)(iii)(B)).

Consistent with the September 8, 2006 proposed amendments, the EPA is finalizing the removal of the term "combustion" from the requirement to monitor temperature of enclosed combustors (40 CFR 60.768(b)(2)(i) and 40 CFR 60.768(c)(1)(i)).

Consistent with the September 8, 2006 proposed amendments, we are amending the definition of "household waste" and adding a definition of "segregated yard waste" in subpart XXX (40 CFR 60.761) to clarify our intent regarding the applicability of the landfills NSPS to landfills that do not accept household waste, but accept segregated yard waste.

V. Summary of Significant Changes Since Proposal

A. Changes to Monitoring, Recordkeeping, and Reporting

1. Corrective Action

We are revising the procedural requirements for correcting positive pressure and temperature by allowing owners or operators 60 days to correct exceedances. If the owner or operator cannot achieve negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) by 60 days after the initial exceedance, owners or operators must conduct a root cause analysis to identify the most appropriate corrective action, which can include, but is not limited to, expanding the GCCS. For corrective action that takes longer than 60 days, owners or operators must develop an implementation schedule to complete the corrective action as soon as practicable, but no more than 120 days following the initial positive pressure or temperature reading. Additionally, owners or operators must keep records of the corrective action analysis. Owners or operators must submit the corrective action and corresponding implementation timeline to the Administrator for approval when implementation of the corrective action is expected to take longer than 120 days after the initial exceedance.

This change provides flexibility to owners or operators in determining the appropriate remedy, as well as the timeline for implementing the remedy.

2. Landfills Recirculating Leachate or Adding Other Liquids

The EPA is adding electronic reporting requirements for wet areas of landfills. The additional reporting applies to areas of the landfill that have recirculated leachate within the last 10 years and to areas where other liquids were added within the last 10 years.

The EPA is requiring these landfills to annually report quantities of liquids added and/or leachate recirculated. The first report will contain historical quantities, where those data are available in on-site records. The EPA is also requiring the landfill to report the surface area over which the liquids are added or the leachate is recirculated during each reporting year. The EPA is also requiring the landfill to report the total waste disposed in the area with recirculated leachate or added liquids as well as the annual waste acceptance rates in those same areas. As discussed in Section VI.A.3 of this preamble, this additional electronic reporting for wet landfills will inform potential future action on wet landfills.

3. Portable Gas Analyzers

We are allowing the use of portable gas composition analyzers in conjunction with Method 3A to monitor the oxygen level at a wellhead. The portable gas composition analyzer may be used to monitor the oxygen level at a wellhead provided that the analyzer is calibrated and meets all QA/QC requirements according to Method 3A. ASTM D6522–11 may be used as an alternative to Method 3A for wellhead monitoring as long as all the quality assurance is conducted as required by ASTM D6522–11. To use ASTM D6522–11, the sample location must be prior to combustion.

This change allows owners or operators to employ proven, reliable devices that are commonly used in practice to measure wellhead parameters. This change also eliminates the need for the landfill owner or operator to request portable analyzers as an alternative, as well as the need for agency review or approval of such requests. In addition to providing reliable results when used properly, portable analyzers have a number of benefits, including common use, the ability to provide additional information on gas composition, and the ability to download data to a spreadsheet for easy access and analysis.

4. More Precise Location Data

The EPA is finalizing a requirement for landfills to report the latitude and longitude coordinates of each surface emissions exceedance (500 ppm methane or greater) with an instrument accuracy of at least 4 meters. This change will provide a more robust and long-term record of GCCS performance. Landfill owners or operators and regulators can use locational data to gain perspective on how the LFG collection system is functioning over time and owners or operators will be able to track trends in GCCS performance and cover practices to ensure a well operating system and minimize emissions.

5. Update and Approval of Design Plan

Landfill owners or operators must submit an updated design plan for approval based on the following criteria: (1) Within 90 days of expanding operations to an area not covered by the previously approved design plan; and (2) before installing or expanding the gas collection system in a way that is not consistent to the previous design plan. In the final NSPS, the EPA removed a third criteria that was proposed: Update the design plan prior to implementing an approved alternative operating parameter value for temperature, nitrogen, or oxygen, if the owner or operator has requested alternative operating parameter values.

B. Tier 4

In the 2014 proposed NSPS, the EPA requested comment on whether to include an additional tier, "Tier 4," which would allow the use of site-specific measurements of surface methane emissions to determine if installation of a GCCS is required. In the 2015 proposed Emission Guidelines, the EPA proposed Tier 4 to determine if a landfill needed to install and operate a GCCS based on surface emission monitoring using EPA Method 21 (80 FR 52112). As indicated in section IV.A.2 of this preamble, the EPA is finalizing the use of Tier 4 SEM as an alternative way of determining when a landfill must install a GCCS. The details of the Tier 4 emission threshold methodology are presented in sections IV.A.2 and VI.B of this preamble.

C. Changes To Address Closed or Non-Productive Areas

Criteria for Removing GCCS. Since the emission threshold was reduced from 40 Mg/yr in the 2014 NSPS proposal to 34 Mg/yr in the 2015 supplemental NSPS proposal, the EPA is editing the criteria for removal in this final rule to be consistent with the final NMOC threshold of 34 Mg/yr. In addition, the EPA is finalizing an option for the landfill to demonstrate the GCCS will be unable to operate for 15 years due to declining gas flows to provide additional flexibility on low producing areas. The GCCS can be capped, removed, or decommissioned when a landfill owner or operator demonstrates that (1) the landfill is closed, (2) the calculated NMOC emission rate at the landfill is less than 34 Mg/yr on three consecutive test dates, and (3) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows.

D. Startup, Shutdown, and Malfunction Provisions

In the 2014 NSPS proposal (79 FR 41812), the EPA clarified that performance standards apply at all times, including periods of SSM. The EPA also added requirements to estimate emissions during SSM events. Consistent with *Sierra Club* v. *EPA, 551 F.3d 1019 (D.C. Cir. 2008),* the EPA is clarifying that standards outlined in the NSPS apply at all times. In recognition of the unique nature of landfill emissions and consistent with the need for standards to apply at all times, including during periods of SSM, the EPA is reaffirming a work practice standard that applies during SSM events. During such events, owners or operators must shut down the gas mover system and close within 1 hour all valves in the collection and control system contributing to the potential venting of the gas to the atmosphere. The landfill owner or operator must also keep records and submit reports of all periods when the collection and control device is not operating.

E. Definitions for Treated Landfill Gas and Treatment System and Treatment System Monitoring

The definition of treated LFG is clarified to include not only use as a fuel for stationary combustion devices, but also allows other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, and use as a raw material in a chemical manufacturing process. Additionally, the treatment system is defined as a system that filters, de-waters, and compresses LFG for sale or beneficial use. Further, the EPA is requiring site-specific treatment system monitoring plans that include monitoring parameters that address filtration, de-watering, and compression to ensure the treatment system is operating properly for the intended end use of the treated LFG.

F. Other Corrections and Clarifications

The use of EPA Method 25A and Method 18 (on a limited basis, *e.g.,* specific compounds like methane) are included in the final rule. Method 25A in conjunction with Method 18 (for methane) or Method 3C can be used to determine NMOC for the outlet concentrations that are less than 50 ppm NMOC as carbon.

VI. Rationale for Significant Changes Since Proposal

After considering public comments and further analyzing the available data, the EPA made several changes in this final rule relative to what we proposed. A complete list of public comments received on the proposed rule and the responses to them can be viewed in the *document,* "Responses to Public Comments on EPA's Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills: Proposed Rules" (hereafter "Response to Comments document"), which is available in Docket EPA–HQ–OAR–2003–0215. This section of this preamble summarizes comments and presents responses for only provisions that have changed since the 2014 proposed NSPS and 2015 supplemental proposal.

A. Changes to Monitoring, Recordkeeping, and Reporting

1. Wellhead Monitoring

In the 2014 proposed NSPS, the EPA requested comment on alternative wellhead monitoring requirements, including potential removal of the temperature and nitrogen/oxygen monitoring requirements, or a reduction in the frequency of this monitoring. For example, the EPA indicated that it could reduce the frequency of wellhead monitoring for these three parameters (temperature and nitrogen/oxygen) from monthly to a quarterly or semi-annual schedule. The EPA requested comments on whether the potential exclusion should apply to a subset of landfills or landfill areas based on beneficial use of LFG.

In the 2015 proposed Emission Guidelines, the EPA proposed to remove the operational standards (*i.e.,* the requirement to meet operating limits) for temperature and nitrogen/oxygen at the wellheads, thus removing the corresponding requirement to take corrective action for exceedances of these parameters. This approach was taken to eliminate the need for owners or operators to request higher operating values (HOVs) for these parameters, submit alternative timelines for corrective action, or expand the GCCS to address exceeding these wellhead standards. The EPA proposed to maintain the requirement to monitor nitrogen/oxygen and temperature on a monthly basis, but to remove the requirement to report exceedances from fluctuations or variations in these parameters in the annual reports. Instead of annual reporting, the EPA proposed that landfill owners or operators maintain the records of this monthly monitoring on site to inform any necessary adjustments to the GCCS and make these records available to the Administrator upon request. The EPA proposed to maintain the requirement to operate the GCCS at negative pressure and in a manner that collects the most LFG and minimizes losses of LFG through the surface of the landfill. The EPA also requested comments on whether it should add a requirement to monitor wellhead flowrate, or any other wellhead monitoring parameters, that would help to ensure a well-operated GCCS (80 FR 52138).

Comment: Several commenters want the EPA to maintain the wellhead operational standards, including states, industry consultants, and environmental organizations, with one environmental organization stating that these wellhead parameters are the only warning signal for potential fire hazard. One state stated that the removal of the operational standards could lead to some landfill owners or operators not operating the GCCS in an effective manner, thus creating a potential for increased LFG emissions through the landfill surface.

Many other commenters supported removing the nitrogen/oxygen and temperature operational standards, including industry, some states, and the Small Business Association. Several commenters indicated that a lack of response or approval of HOV requests or alternative timelines for corrective action, despite appropriate justification, is a significant administrative barrier in the current NSPS and Emission Guidelines. These commenters stated that a lack of response to or approval of HOVs results in owners or operators having to install new wells to correct for temperature or oxygen exceedance even though such expansion of the GCCS does not correct the exceedance and may be contrary to a well-operated GCCS. One commenter stated that removing the operational standards would alleviate one of the most significant barriers to installing interim gas collection measures and would alleviate the corresponding administrative burden of requesting HOVs. Other commenters stated that removing the operational standards would not only reduce administrative burden, but would also facilitate early installation of GCCS and the use of appropriate best management practices to maximize gas collection. Two comments from state agencies agreed with removing the operational standards, and agreed with retaining monthly monitoring of temperature and nitrogen/oxygen and retaining the corresponding monitoring data.

Several commenters suggested that certain monitoring data should be reported on a semi-annual basis so that agencies can identify or prevent fires. For example, state agency commenters suggested that the EPA require semi-annual reporting of wellhead readings above 5 percent oxygen and 130 degrees Fahrenheit, which was supported by supplemental comments received from the industry and industry trade organizations. One commenter also suggested reporting of any subsurface fire. One regional agency wanted the results to be reported if temperature exceeds 150 degrees Fahrenheit and also suggested reporting any methane to carbon dioxide ratio less than 1.

Commenters that supported the removal of the operational standards for temperature and nitrogen/oxygen also contended that the nitrogen/oxygen and temperature wellhead parameters are poor indicators of landfill fires or inhibited decomposition and that landfill owners or operators already have their own incentive to prevent landfill fires. Commenters added that expanding the LFG collection system by drilling new wells may introduce more air into the landfill, which can exacerbate a fire and actually increase oxygen content. Commenters that favored retaining the operational standards for temperature and nitrogen/oxygen contend that temperature and nitrogen/oxygen data are essential to inform regulators of the presence of potential for a landfill fire.

Response: After carefully considering public comments and available data, the EPA is removing the operational standards (*i.e.,* the requirement to meet operating limits) for nitrogen/oxygen, but not temperature. Landfill owners or operators must continue to monitor nitrogen/oxygen on a monthly basis, however, to ensure that the GCCS is well maintained and operated, collects the most LFG, and minimizes losses of LFG through the surface of the landfill. Landfill owners or operators must maintain records of this monthly monitoring and make these records available to the Administrator upon request. The EPA is requiring monthly monitoring and recordkeeping for these wellhead monitoring parameters (*i.e.,* oxygen, nitrogen, temperature, and pressure), since these are key indicators that are already being monitored by landfill owner or operators to determine how well the landfill is being operated, including the capturing and destroying landfill gas, promoting efficient anaerobic decomposition and/or preventing landfill fires.

Because of concerns regarding fire hazards, the EPA is retaining the operational standard for temperature. Landfill owners or operators must electronically submit, as part of their annual report, all readings that show LFG temperatures greater than 55 degrees Celsius (131 degrees Fahrenheit), and document the root cause and corrective action taken to correct for this exceedance, as discussed in section VI.A.2 of this preamble. While several commenters supported removing the temperature parameters, other commenters were concerned with fire risks if the parameter was removed. In addition, given the EPA experience with consent decrees and other enforcement actions involving elevated temperature values, the EPA has decided to retain temperature as an operating standard in the final rule. This overall approach will reduce the number of requests for HOVs and alternative timeliness for nitrogen/oxygen parameters. In addition, note that regulatory agencies can request data records of oxygen, nitrogen, or temperature monitoring, as measured on a monthly basis, at any time.

Landfills are subject to 40 CFR part 60, subpart A. These provisions require landfill owners or operators, to the extent practicable, to maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Due to the extreme environmental consequences of a subsurface landfill fire, these provisions obligate landfill owners or operators to take all practical steps necessary to avoid landfill fires. While this action removes requirements to meet operational standards for nitrogen/oxygen at wellheads and to make corrective actions, landfill owners or operators must continue all due diligence to ensure that the GCCS is not overdrawn, thereby creating a flammable subsurface environment. Because the corrective action requirements for certain parameters have been retained, the EPA is reaffirming its provisions for HOVs. The HOV provisions were originally enacted to address variations in temperature between landfills and between wells. With a sufficient demonstration (*i.e.,* supporting data showing the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens), an HOV may be established for temperature, nitrogen, or oxygen at a particular well. The EPA encourages regulatory authorities review requests for HOVs in a timely manner and to make use of these mechanisms where appropriate.[38]

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[38] The EPA asserts the importance of case specific HOV requests and approvals. However, to address concerns from HOV request reviewers and those

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2. Corrective Action

In a 1998 **Federal Register** notice (63 FR 32748, June 16, 1998), the EPA amended the wellhead monitoring provisions of 40 CFR part 60, subpart WWW to allow an alternative timeline for correcting wellhead exceedances to be submitted to the Administrator for approval. The rule change made the wellhead monitoring provisions consistent with the SEM provisions, which allow an alternative remedy and corresponding timeline for correcting an exceedance to be submitted to the Administrator for approval. The EPA noted in the 1998 preamble that any timeline extending more than 120 days must be approved by the regulating agency. Since 1998, questions have been raised about the timing of correcting wellhead exceedances and whether a landfill needs agency approval for corrective action timelines that exceed 15 calendar days but are less than the 120 days allowed for expanding the GCCS.

The EPA clarified in the proposed subpart XXX that, with the exception of system expansion, all corrective actions expected to exceed 15 calendar days should be submitted to the agency for approval of an alternate timeline. Additionally, the EPA proposed that if a landfill owner or operator expects the system expansion to exceed the 120-day allowance period, it should submit a request and justification for an alternative timeline. Further, the EPA solicited comment on extending the requirement for notification from 15 days to as soon as practicable, but no later than 60 days.

The proposed Emission Guidelines noted that the proposed removal of operational standards for nitrogen/oxygen and temperature would drastically reduce the number of requests for alternative corrective action timelines. However, the requirement to maintain negative pressure at the wellhead remained in the proposal. Therefore, the EPA proposed a timeline for correcting positive pressure, including a requirement to submit an alternative corrective action timeline request to the Administrator if the landfill cannot restore negative pressure within 15 calendar days or the initial failure to maintain negative pressure and the landfill is unable to (or does not plan to) expand the gas collection within 120 days of the initial exceedance.

The EPA explained in the preamble for the 2015 Emission Guidelines proposal that it did not specify a schedule in the proposed rule language by when a landfill would need to submit alternative timeline requests because the EPA determined that investigating and determining the appropriate corrective action, as well as the schedule for implementing corrective action, would be site specific and depend on the reason for the exceedance (80 FR 52126). In addition, the EPA requested comment (80 FR 52126) on an alternative timeline that extends the requirement for notification from 15 days to as soon as practicable, but no later than 60 days from when an exceedance is identified.

Comment: The EPA received comments on the proposed changes, including the time allowed for corrective action and for submitting alternative timeline requests for approval by the Administrator. Regarding the timeframe for submitting a request, several state agencies recommended extending the 15-day timeline for a request to be submitted and indicated that 15 days is not sufficient time to evaluate the problem and plan for corrective action, which may often involve construction activities. There were varied opinions from the state agencies on what length of time beyond 15 days is appropriate. Two agencies supported an extension to as soon as practicable but no later than 60 days, while other agencies specified that the request should be submitted within 30 days from the initial exceedance.

Industry representatives from private and publicly owned landfills as well as waste industry consultants opposed the requirement to submit a request for an alternative corrective action timeline within 15 days. The commenters were concerned that 15 days is not enough time to assess the appropriate solution across miles of interconnected piping. In addition, the commenters were concerned that a 15-day time period would increase the paperwork for both the landfill and the reviewing regulatory agency. One commenter indicated that while many repairs can be completed within 60 days, some repairs, especially in cold weather climates, may take longer. One industry commenter suggested that a timeframe of 90 days to complete any adjustments or repairs is appropriate. If the corrections could not be made within 90 days, the commenter stated that the landfill would be prepared to have the system expanded within 120 days.

Industry commenters raised the issue that the timeline for corrective action for surface exceedances in the current subpart WWW regulations, 40 CFR 60.755(c)(4)(v), allow 120 days to install a new well or other collection device or submit an alternative timeline for another corrective action. These commenters also indicated that the 1998 NSPS amendments modified the corrective action for wellhead parameter exceedances to be consistent with the timeframe allowed for correcting surface exceedances (63 FR 32748, June 16, 1998). The commenters also noted that the 1998 amendments recognized that installation of a new well may not always be the appropriate corrective action for remedying a wellhead exceedance.

Despite the 1998 rule amendments, several of these industry commenters note that interpretation and implementation of the 1998 amendments to 40 CFR 60.755(a)(3) have been inconsistent, with some agencies only requiring the landfill owner or operator to submit requests if the corrective action will take longer than 120 days. Other states have taken the position that any exceedances that cannot be resolved within 15 days must automatically result in a requirement to expand the GCCS. One commenter referenced determinations that required landfills to submit an alternative timeline request within 15 days. One commenter indicated that the original rule never anticipated notification and a request for an alternative compliance timeline within 15 days, while another commenter indicated that the state of Texas requires landfills to submit alternative timelines only if the corrective action requires more than 120 days to complete.

In consideration of the 1998 final rule notice, industry commenters, recommended that EPA require landfill owners or operators to submit an alternative timeline request for approval as soon as practicable and only in circumstances in which a system expansion or alternative corrective action will require more than 120 days to complete. One of the commenters suggested that this approach was consistent with the Petroleum Refineries NSPS (40 CFR part 60, subpart Ja). The commenter noted that while the Landfills NSPS requires special approval to avoid the default corrective action of expanding the GCCS, the Refineries NSPS requires a root cause analysis to identify the appropriate corrective action, without specifying a default approach. The Refineries NSPS requires a root cause analysis and a corrective action analysis for exceedances and requires the facility to implement the corrective action within

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submitting requests, an example of regulatory guidance for HOV demonstrations can be found at *http://www.epa.ohio.gov/portals/34/document/guidance/gd_1002.pdf.*

45 days. If the corrective action cannot be completed in 45 days, the refinery must document and record all corrective actions completed to date. For actions not fully completed by day 45, they must develop an implementation schedule, as soon as practicable, for beginning and completing all corrective action.

One commenter provided some ideas for landfills to demonstrate good faith effort to comply with the 120-day corrective action schedule. They suggested the rules clarify that the landfill owner or operator is required to submit a notification to the agency that identifies and describes the diagnosis performed, the results of the diagnosis, identifies the corrective measure or alternative remedy to be implemented and reason(s) why system expansion is not appropriate to correct the exceedance. Under such an approach, corrective measures other than expansion that take 0–60 days to complete from the initial exceedance would not require any notification or approval but they would be documented in the annual compliance report. For corrective actions other than expansion that take longer than 60 days but less than 120 days to complete, the landfill owner or operator would notify the regulatory agency by day 75 from the date of the initial exceedance. This would allow 45 days for the agency to review and comment, and such notification would not require agency approval so as not to delay the site from proceeding with and completing the corrective action, as long as the corrective actions are completed within the 120-day timeframe.

Industry commenters indicated that the timeline for corrective action is affected by other regulations. Two of these commenters noted that any corrective action that involves disturbing the final landfill cover could delay diagnosing the problem. All of these commenters noted that a 60-day timeframe is problematic for landfills affected by the Asbestos NESHAP (40 CFR part 61, subpart M), which requires a 45-day notification prior to disturbing areas that may have asbestos containing material.

Response: The EPA is retaining the corrective action requirements for temperature in addition to negative pressure. The EPA recognizes the importance of temperature as a critical indicator of landfill fires and its effect on methanogens. Further, removal of the corrective action requirements for temperature could have the unintended consequence of improper operation of a GCCS, which could lead to a subsurface fire. Due to the important of this parameter, e-reporting requirements for excessive temperatures have also been established to better assess landfill fires.[39]

After carefully considering the comments received and evaluating the available data, the EPA is finalizing corrective action requirements that generally give owners or operators 60 days to investigate and determine the appropriate corrective action and then implement that action. The EPA has retained the requirements for temperature and positive pressure, in that if positive pressure or temperature exceedances exist, action must be initiated to correct the exceedances within 5 calendar days. This requirement has been retained to ensure the landfill takes prompt action to ensure the GCCS remains well-operated. The EPA recognizes, however, that the appropriate corrective action, as well as a schedule to implement it, is site-specific and depends on the reason for the exceedance. Therefore, for corrective action that takes longer than 60 days after the initial exceedance to implement, the EPA is providing flexibility for the landfill to determine the appropriate course of action based on a root cause analysis. Specifically, if the owner or operator cannot achieve negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) at the GCCS wellhead within 15 days, then the owner or operator must conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after positive pressure or temperature above 55 degrees Celsius (131 degrees Fahrenheit) was first measured. An implementation schedule is required for exceedances that take longer than 60 days to correct. A root cause analysis is an assessment conducted through a process of investigation to determine the primary cause(s), and any other contributing cause(s), of positive pressure at a wellhead or temperature above 55 degrees Celsius (131 degrees Fahrenheit). The root cause analysis and documentation of the corrective action taken to restore negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) must be kept on site as a record, but they do not have to be submitted or approved.

If negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) cannot be achieved within 60 days, then the owner or operator must develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the positive pressure or temperature reading. The implementation schedule, root cause analysis, and documentation of the corrective action taken to restore negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit) must be submitted in the facility's next annual report, but these items do not have to be approved.

If the exceedance cannot be corrected (or is not expected to be corrected) within 120 days, then the owner or operator must submit the root cause analysis, plan for corrective action to restore negative pressure or temperature of 55 degrees Celsius (131 degrees Fahrenheit), and the corresponding implementation timeline to the Administrator. The Administrator must approve the plan for corrective action and the corresponding timeline. The owner or operator must submit the proposed corrective action and timeline to the Administrator for approval as soon as practicable but no later than 75 days after the initial exceedance. Requiring approval by the regulatory agency for corrective action timelines that extend beyond 120 days is consistent with the corrective action timeline for surface emissions in 40 CFR 60.765(c)(4)(v). This approach also prevents the landfill owner or operator from delaying submittals for corrective action requests until day 120. Once the negative pressure has been restored, the facility must document the corrective actions taken in the facility's next annual report.

For the corrective action required to address positive pressure, the owner or operator must keep a record of the root cause analysis conducted, including a description of the recommended corrective action(s); the date for corrective action(s) already completed following the positive pressure reading; and for action(s) not already completed within 60 days of the initial positive pressure reading, a schedule for implementation, including proposed commencement and completion dates. For corrective actions taking longer than 60 days to correct the exceedance, the owner or operator would also include in the annual report the root cause analysis, recommended corrective action(s), date corrective actions were completed, and schedule for implementing corrective actions. The owner or operator must also notify the Administrator within 75 days. For corrective actions that take longer than 120 days to correct the exceedance, the owner or operator would include, in a separate notification submitted to the Administrator for approval as soon as practicable, but no later than 75 days after the initial positive pressure reading, the root cause analysis, recommended corrective action(s), date corrective actions taken to date were completed, and proposed schedule for implementing corrective actions.

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[39] The need to rely on temperature in addition to pressure is also illustrated in the report titled Subsurface Heating Events at Solid Waste and Construction and Demolition Debris Landfills: Best Management Practices at *http://www.epa.ohio.gov/portals/34/document/guidance/subsurface%20heating%20events.1009.pdf.*

3. Landfills Recirculating Leachate or Adding Other Liquids

In the 2014 ANPRM and 2015 proposed Emission Guidelines, the EPA solicited input on whether additional action should be taken to address emissions from wet landfills (*i.e.,* landfills that recirculate leachate or add liquids). Commenters differed on whether the EPA should require separate thresholds or different lag times for landfills that recirculate leachate or add liquids. (The lag time is the time period between when the landfill exceeds the emission rate threshold and when controls are required to be installed and started up.) Commenters supported more environmentally protective requirements for wet landfills and asserted that wet landfills produce more methane but actually collect less. Commenters stated that the EPA should shorten the lag time for installing controls. Other commenters opposed separate requirements for wet landfills and contended that additional requirements for wet landfills would achieve minimal emission reductions and would result in a significant additional burden for landfills that recirculate leachate. One commenter said that the EPA should focus on potential emission reductions at landfills that recirculate leachate.

Commenters also differed on what methane generation rate (k-value) should be used in the landfills NSPS for wet landfills. One commenter indicated that they have previously provided several studies on k-values for wet landfills to EPA and urged the EPA to update the emission factors for wet landfills based on this literature prior to adjusting the control requirements at landfills recirculating leachate or adding other liquids. Another commenter asked the EPA to use higher, more representative k-values, or perhaps a sensitivity analysis for a range of k-values to estimate the impacts of controlling emissions from wet landfills in the landfills NSPS.

Based on the diverse nature of the feedback provided and several other outstanding EPA actions affecting the control requirements and emission factors for wet landfills, the EPA is not creating separate emission threshold or lag time requirements for wet landfills in this action. Instead, the EPA believes it is appropriate to further assess emissions from wet landfills prior to taking additional action on control requirements or changes to the k-values. As a result, the EPA is finalizing additional electronic reporting requirements for wet landfills with a design capacity of 2.5 million Mg or greater to inform potential future action on wet landfills. The final rule is limiting reporting of this additional data to wet landfills that meet the current size threshold of 2.5 million Mg of design capacity to be consistent with the universe of landfills that are affected by the rule.

Specifically, the final NSPS requires annual electronic reporting of the volume of leachate recirculated (gallons per year) and the volume of other liquids added (gallons per year), as well as the surface area over which the leachate is recirculated (or sprayed), and the surface area (acres) over which any leachate or liquids are applied. The quantity of leachate recirculated or liquids added should be based on company records or engineering estimates. The initial report will collect historical data for the 10 years preceding the initial annual reporting year, to the extent the data are available in on-site records, along with data corresponding to the initial reporting year. After the initial report, the other annual electronic reports will include only the quantities of leachate recirculated and/or added liquid and their corresponding surface areas for each the subsequent reporting year. The EPA believes many landfills, especially those operating with a Research, Development, and Demonstration (RD&D) permit, already keep records and may submit reports containing quantities of liquids added. So, the effort to track these additional data is expected to be minimal. RD&D permits are issued through Resource Conservation and Recovery Act (RCRA) subtitle D part 258 regulations for MSW landfills. The EPA is also aware of some state rules that require reporting of leachate or added liquids outside of the Clean Air Act reporting requirements. Consolidating these data in an electronic format in a central repository can help inform how leachate or added liquids affect LFG generation and collection whether air emission standards should be adjusted for wet landfills.

The EPA is also requiring the landfill to report the total waste disposed (Mg) in the area with recirculated leachate and/or added liquids, as well as the annual waste acceptance rates (Mg/yr) in those same areas. Recognizing that the waste quantities may be tracked at the scale house entry to the landfill and not the specific cell where the liquids are added, the EPA is allowing the landfill to report data based on on-site records or engineering estimates.

The EPA is allowing owners or operators of landfills to discontinue annual reporting of the wet landfill report after the landfill has submitted its closure report recognizing that this information would be difficult to obtain after the landfill closed, these landfills are unlikely to still be adding liquids if closed, and also because the gas generation from these landfills are on the downward side of their gas generation curve.

The EPA is also aware of annual LFG collected and annual LFG generation data electronically reported to 40 CFR part 98, subpart HH of the GHGRP and therefore the EPA is not requesting reporting of these data in this rule to avoid duplicative requests. However, the EPA may link the wet landfill practices data collected under the landfills NSPS with the annual gas collected data under subpart HH in order to inform how liquids addition affects LFG emissions. Similarly, the EPA understands that precipitation may affect gas generation. However, since precipitation data are readily available through the National Weather Service, the EPA is not requiring reporting of this parameter. Instead, the EPA will use existing electronic data already available to link up with data collected under this final rule. These additional data will be used to assess the appropriateness of potential future action on wet areas of landfills.

The Paperwork Reduction Act (PRA) requires each federal agency to obtain OMB approval before undertaking a collection of information directed to 10 or more people. The PRA applies whether a "collection of information is mandatory, voluntary, or required to obtain or retain a benefit." The EPA believes the additional data on wet landfills will be beneficial for evaluating whether separate thresholds for wet landfills are appropriate when revising future MSW landfill standards. Because the EPA understands that many of the data elements in the wet landfill report, including quantities of leachate or other liquids added and the surface areas over which those liquids are added are tracked at a state level as part of a leachate management or RD&D permit, the EPA does not anticipate these data. Additionally, the EPA is allowing landfill owners or operators to report the data elements in the wet landfill monitoring report using either engineering estimates or on-site records to minimize the burden on respondents, depending on the types of records the landfill owner/operator may keep.

This is a new rule and a new collections submitted to OMB under EPA ICR number 2498.03. This collection is similar to collections for subpart WWW. Thus, many of the line item burden estimates in this ICR estimate are the same as the burdens submitted to OMB under ICR number 1557.09 for the most recent ICR renewal for subpart WWW.

4. Portable Analyzers

Commenters on the proposed NSPS (79 FR 41796) requested that the EPA specify that portable gas composition analyzers are an acceptable alternative to Methods 3A or 3C, and noted that these devices are commonly used in practice to measure wellhead parameters and are calibrated according to the manufacturer's specifications. Currently, approvals of these analyzers are done on a case-by-case basis. Therefore, in the preamble for the proposed revisions of the Emission Guidelines (80 FR 52141), the EPA requested data or information on using a portable gas composition analyzer according to Method 3A for wellhead monitoring. The EPA also requested data on other reference methods used for calibrating these analyzers.

Comment: Many commenters supported the use of portable gas composition analyzers and requested that the EPA specify that these analyzers may be used as an approved alternative monitoring method for well monitoring. Three state agencies indicated the use of the portable analyzers is common practice. One of these agencies stated that Method 3A and Method 3C are designed to be used in "quasi-CEMS" and/or "laboratory benchtop" situations and most landfill operators are not using this type of equipment to test wellhead LFG; instead, landfill operators are using handheld-size portable analyzers. Another state agency stated that portable gas composition analyzers (*e.g.,* Landtec GEM 2000) are a standard for conducting MSW landfill well monitoring and the analyzers provide additional information on gas composition than what the current Emission Guidelines require, which provides operators with a better understanding of the condition of the landfill. This commenter said that a primary advantage of portable gas composition analyzers, for both landfills and regulators, is that these devices take and record the monitored readings (as well as other information on gas composition that is not required to be monitored in the Emission Guidelines), which can then be downloaded into a spreadsheet and prevent landfills from making data collection mistakes. The commenter suggested that the EPA and state air pollution control agencies would benefit if the EPA were to require landfills to submit, in their semi-annual reports, all of the monitoring data recorded by portable gas composition analyzers.

One commenter stated that most portable gas composition analyzers can be used to measure the oxygen level at the wellhead and can be calibrated according to Method 3A, but are unlikely to be calibrated according to Method 3C (to measure oxygen or nitrogen levels) because such calibration requires the use of gas chromatograph equipment with a thermal conductivity detector and integrator. The commenter said that Method 3A is straightforward and does not specify a particular technology. Several commenters specifically referenced the comments from an equipment manufacturer, which provided specific details on how its Landtec GEM Series portable analyzers are able to comply with each specific requirement in Method 3A, including the calibration requirements. Two of these commenters said that portable gas composition analyzers should be allowed in both the Emissions Guidelines and NSPS. Another of these commenters requested that the EPA add language to the rule to recognize that balance gas is commonly used as a surrogate for nitrogen.

With regard to the EPA's request for data on other reference methods used for calibrating portable gas composition analyzers, one commenter suggested that the EPA allow ASTM D6522 as an alternative to Method 3A because an analyzer can easily be calibrated for oxygen alone following ASTM D6522. The commenter stated that although the QA/QC procedures in ASTM D6522 are different from Method 3A, they are just as rigorous as Method 3A. The commenter stated that it has extensive data available showing portable gas composition analyzers are routinely calibrated according to ASTM Method D6522 for measuring NOx, CO, and oxygen during engine testing. This commenter also stated that any analyzer or device must be calibrated according to an EPA approved method and not just manufacturer's specifications.

Response: The EPA appreciates the commenters providing information regarding the use of portable gas composition analyzers for landfill monitoring. Commenters provided data showing that their portable gas composition analyzers are used to monitor the oxygen level at a wellhead and are capable of meeting the calibration requirements in Method 3A. Therefore, in today's action, we are clarifying the use of portable gas composition analyzers with Method 3A. A portable gas composition analyzer may be used to monitor the oxygen level at a wellhead provided that the portable analyzer is calibrated and meets all QA/QC according to Method 3A. Although we did not receive enough information regarding calibration methods that could be used on a portable gas composition analyzer to monitor the nitrogen level at a wellhead, any portable combustion monitor analyzer that uses gas chromatography and thermal conductivity technology may be used with Method 3C. Other technologies for the measurement of nitrogen may be used in lieu of Method 3C through the administrative alternative test method process outlined in 40 CFR 60.8(b)(2).

Regarding the suggestion to allow ASTM D6522–11 as an alternative to Method 3A, the EPA thanks the commenter for their perspective. As long as all the quality assurance is conducted as required by ASTM D6522–11, then ASTM D6522–11 may be used as an alternative to Method 3A for wellhead monitoring (prior to combustion). Examples of quality assurance required by ASTM D6522–11 include, but are not limited to: Analyzers must have a linearity check, interference check, bias check using mid-level gases, stability check, and be calibrated before a test; and a calibration error check and the interference verification must be conducted after the testing has occurred. Due to a different sample matrix typically found in post-combustion gas streams as stated in the applicability of ASTM D6522–11, the interference check must be done on the oxygen measurement with the appropriate gases (*e.g.,* carbon dioxide, VOC mixture, and methane) and concentration ranges. The ASTM D6522–11 method also has calibrations before and calibration checks after testing. According to Methods 3A, 3C, and ASTM D6522–11, the data are valid only when they pass the bias check or zero and upscale calibration error check. The EPA does not believe manufacturers' specifications are rigorous enough to ensure data are of a proper quality.

5. More Precise Location Data

The EPA proposed more specific requirements for reporting the locations where measured methane surface emissions are 500 ppm above background in the 2015 proposed Emission Guidelines (80 FR 52124). Specifically, the EPA proposed to require landfills to report the latitude and longitude coordinates of each surface emissions monitoring (SEM) exceedance using an instrument with an accuracy of at least 3 meters. This includes surface methane readings above 500 ppm for landfills conducting quarterly SEM with GCCS in place, as well as landfills that are conducting Tier 4 SEM to determine the timing of GCCS installation.

Comments: Several commenters support and several commenters oppose the EPA's proposed requirement to report the latitude and longitude coordinates of each methane surface emissions exceedance using an instrument with an accuracy of at least 3 meters.

Of those commenters that support the requirement, one said that making global positioning system (GPS) coordinates of each exceedance available will assist owners or operators in determining the location and timing of exceedances relative to the GCCS components and would also assist in inspections and enforcement. This commenter added that these requirements provide important compliance monitoring assurances as well as important information to landfill owners or operators regarding their GCCS effectiveness. Other supportive commenters argued that all SEM data and GPS coordinates should be recorded, no matter whether there is an exceedance. One of these commenters, a state agency, said that the NSPS and Emission Guidelines have historically required retention of only exceedance data, but GPS data correlated with SEM readings would be an invaluable addition to the monitoring procedure. Another commenter said recording all SEM data (rather than only exceedances) is necessary to show compliance with the monitoring requirement; and by linking the methane readings with positioning data, the time required to process the data will be reduced. Commenters said that by correlating the SEM readings directly with the location of the reading, facilities and their regulators can easily gain a clear picture of how the LFG collection system was functioning and anticipate problems before they arise by tracking trends in the data.

Of the commenters that oppose the requirement that owners or operators of landfills report the latitude and longitude coordinates of each exceedance using an instrument with an accuracy of at least 3 meters, one said it is unclear why coordinate information must be reported, given that it merely adds burden for sites to collect and report as well as for agencies to review. Two of these commenters argued that the added expense to purchase an instrument (*i.e.,* a GPS device), use that GPS device in the field, and then plot the GPS data on a map, may provide no additional value to the operator compared to marking exceedances with marker flags. One of these commenters stated that 3 meters is too much of an error range such that the use of GPS alone may not allow the operator to return the exact spot of the exceedance, and may still necessitate the use of a marker flag. Another of these commenters added that the existing approach of marking exceedances at their exact physical location with a marker flag is actually more accurate because it does not rely on a technology with accuracy limitations.

Some of the commenters that oppose the requirement said that it is unclear from the docket materials (*e.g.,* the Regulatory Impact Analysis) whether the EPA evaluated: (1) If GPS equipment can achieve an accuracy of at least 3 meters; (2) the cost to purchase or rent GPS equipment; and/or (3) the size and weight of the GPS equipment with regard to requiring a technician to carry another field monitoring instrument. One of these commenters added that because GPS equipment is not typically integrated into other monitoring devices, monitoring technicians will be required to carry the GPS equipment in addition to the monitoring equipment, which could be difficult and present a safety concern.

Response: The EPA is finalizing a requirement for landfills to report the latitude and longitude coordinates of each surface emissions exceedance, as proposed in the 2015 Emission Guidelines, except the instrument accuracy must be at least 4 meters instead of 3 meters. GPS technology is readily available and is currently in use at landfills in California and other landfills employing electronic LFG data management systems. These GPS devices have the ability to identify latitude and longitude coordinates in decimal degrees with at least five decimal places. This level of accuracy and precision is consistent with the requirements finalized in the Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards (80 FR 75250). The EPA is aware of one device that is already in use by some landfills in California to conduct surface emissions monitoring and to create a more comprehensive understanding of the GCCS. The instrument, containing a flame ionization detector (FID), is linked by Bluetooth wireless technology to a GPS-enabled handheld field instrument. This instrument has an accuracy of 2–4 meters.

When reviewing site records on the location of the traversed path and where surface emission leaks were identified, inspectors will be able to identify areas of the landfill where surface monitoring activities may be incomplete, which may assist with targeting inspections to problem areas of the landfill. In addition, more precise location data will allow the landfill owner or operator to overlay the coordinates of surface exceedances against maps of the GCCS to determine spatial and temporal patterns of exceedances relative to GCCS components. Both the landfill owner or operator and regulators can use locational data to gain perspective on how the LFG collection system is functioning over time and will allow the landfill to track trends in GCCS performance and cover practices.

Using GPS locational data will provide a more robust and long-term record of GCCS performance compared to the short-term practice of simply marking an exceedance location with a marker flag. Owners or operators may continue the practice of marking exceedances with a flag, but GPS data will allow the landfill owner or operator to return readily to the location of the exceedance to not only take the required corrective action, but also to track and inform long-term performance of the GCCS to minimize emissions.

The EPA included the rental price of a Trimble Integrated Landfill Gas Solution device, which combines a FID linked by Bluetooth wireless technology to a GPS-enabled handheld field instrument, in the revised testing and monitoring cost analysis for both the final NSPS and final Emission Guidelines. The GPS location is recorded in real time as the technician traverses the path so the labor involved in gathering and recording the data with GPS coordinates is expected to be minimal. In fact, the recording of each surface reading and the corresponding locational data is automatic, in contrast to the older technology, which may have involved handwriting an exceedance in a notebook and then transposing the data to a computer after returning from the field. Eliminating transposing the data could reduce data entry errors and improve data accuracy and credibility. The GPS device is already in use by landfills that maintain an electronic LFG data management system to map long-term trends in GCCS performance. The GPS device weighs approximately 21 ounces (including battery weight) and can be clipped to a belt or attached to a backpack to allow the technician to complete the monitoring safely.

6. Update and Approval of Design Plan

The EPA proposed three criteria for when a design plan must be submitted for approval: (1) Within 90 days of expanding operations to an area not covered by the previously approved design plan; (2) before installing or expanding the gas collection system in a way that is not consistent with the previous design plan; and (3) prior to implementing an approved alternative operating parameter value for temperature, nitrogen, or oxygen, if the owner or operator has requested alternative operating parameter values. Further, the EPA proposed to maintain the same site-specific design plan review and approval procedures while soliciting comment on ways to streamline the design plan submission and approval procedures. Similarly, the August 2015 proposed Emission Guidelines included the first two criteria but omitted the third criteria to submit an updated design plan prior to implementing an approved alternative operating parameter value for temperature, nitrogen, or oxygen.

Comment: Commenters opposed the requirement to update the design plan prior to implementing an approved alternative operating parameter value for temperature, nitrogen, or oxygen because the requirement to obtain approval of the updated design plan creates a duplicative approval process for these alternative values. Commenters stated that the EPA has removed operational flexibility and placed additional burden on the regulatory agencies by requiring this update and approval process for design plans. Several commenters noted that there is no approval timeline, which leaves landfills in limbo regarding their operations, even when alternative operating values have already been approved for the landfill.

Response: As discussed in Section VI.A.1 of this preamble, the EPA is finalizing the removal of operational standards for nitrogen/oxygen levels at the wellhead. High temperature values will be reported electronically on an annual basis. Thus, the EPA has also removed the criterion to update the design plan for alternative operational standards. The EPA did not finalize this criterion, in order to minimize additional burden on approving agencies and landfill owners or operators. See the Response to Comments document located in the docket for this final rule for additional discussion related to updates and approval of the design plan.

B. Tier 4

The proposed subpart XXX included three different tiers that are available to an affected landfill to estimate whether or not the landfill exceeds the NMOC emission threshold, thus requiring collection and controls. The EPA requested comment on whether to include an additional tier, "Tier 4", which would allow the use of site-specific measurements of surface methane emissions to determine if installation of a GCCS is required.

Further, in the Emission Guidelines, the EPA proposed Tier 4 as an alternative site-specific emission threshold determination for when a landfill must install and operate a GCCS (80 FR 52112). Under the proposed Tier 4, landfills could demonstrate that surface methane emissions are below 500 ppm for four consecutive quarters based on the results of quarterly site-specific methane emissions monitoring of the perimeter of the landfill and entire surface of the landfill along a pattern that traverses the landfill at 30-meter (98-ft) intervals, in addition to where visual observations may indicate elevated concentrations of LFG, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. Once a landfill opts to use Tier 4, any reading of 500 ppm or greater would require the installation and operation of a GCCS within 30 months of the Tier 2 exceedance. For both Tier 4 SEM for determining the timing for GCCS installation and SEM to ensure a well-operated GCCS, the EPA considered limiting SEM during windy conditions. Specifically, in the Emission Guidelines, the EPA proposed that SEM must be terminated when the average wind speed exceeds 5 mph or the instantaneous wind speed exceeds 10 mph. However, the EPA also proposed that the Administrator may approve alternatives to this wind speed SEM termination for landfills consistently having measured winds in excess of these specified limits.

The EPA received several comments on both the general request for comment on a Tier 4 provision in the 2014 NSPS proposal as well as more specific comments on the proposed Tier 4 provision included in the 2015 Emission Guidelines proposal. These comments are summarized below.

Comment: Many commenters, representing industry, state regulatory agencies, and environmental interests, supported the Tier 4 SEM approach for determining when a GCCS must be installed. In addition, the Environmental Defense Fund (EDF) presented the idea of a surface concentration threshold as one of many potential alternatives to further reduce emissions from landfills in its January 2013 whitepaper.[40] Commenters stated that the option to conduct site-specific measurements using SEM is a more accurate indication of when gas collection is necessary to reduce emissions, compared to modeled emission rates. SEM is a data-driven approach that is better able to adjust for differentials in gas generation that may be a result of climate differences, waste acceptance rates, and cover soil materials that vary between landfills in different regions of the United States. One of these commenters claims that modeling can also cause landfills to install GCCS prematurely, incurring a financial burden that is not warranted.

One commenter disagreed with using Tier 4 to determine the timing of GCCS installation and suggested that the approach provides landfills another option to delay installation of controls. This commenter suggested either removing the provision or making Tier 4 much more stringent. Other commenters expressed concern about state agencies' lack of experience with SEM and time to determine whether Tier 4 monitoring requires a GCCS to be installed. These commenters also requested guidance for Tier 4 implementation procedures.

Commenters disagreed on the potential benefits of a Tier 4 option. Commenters representing both industry and environmental interests asserted the SEM option would encourage landfill owners or operators to implement methane reduction practices, such as the use of oxidative landfill covers, organic waste diversion, and interim gas control measures (horizontal gas collectors, connecting a leachate collection recovery system into a GCCS), noting that such practices could be implemented more quickly and more cost-effectively than a GCCS installed in accordance with the design plan requirements of the current NSPS. One commenter indicated that the use of SEM in determining the need to install a GCCS would reduce costs and energy consumption for landfills otherwise required to install controls. The commenter also asserted that landfills would not generate a sufficient amount of gas to support a collection system but would remain below surface emission thresholds based on site-specific measurements. Two commenters disagreed that Tier 4 would encourage organics diversion at landfills. One of these commenters agreed that Tier 4 would encourage the use of other methane reduction practices such as oxidative covers and interim gas controls, but these practices would be done at the expense of more effective installation of active GCCS.

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[40] Environmental Defense Fund. Recommendations and Considerations for EPA's Forthcoming Revisions to Section 111 Standards for MSW Landfills. January 2, 2013. See EPA–HQ–OAR–2003–0215–0050.

Commenters made several specific suggestions regarding details of how Tier 4 should be implemented, including which landfills should qualify for Tier 4, the areas subject to SEM under Tier 4, the surface emission concentration to identify exceedances and how many exceedances would be needed to trigger GCCS installation under Tier 4, the ordering of Tiers 1–3 relative to Tier 4, and meteorological conditions necessary to achieve robust results. A summary of each of these implementation comments is presented below.

Which landfills should qualify. Some commenters believe that the EPA should limit the types of landfills that qualify for Tier 4. One commenter opposed the inclusion of a Tier 4 option for new landfills, stating that it allows a subset of new landfills to delay methane capture requirements when these landfills will be required to install a GCCS in the future and should have a GCCS designed and installed during landfill construction. One commenter encouraged the EPA to ban Tier 4 for landfills with a voluntary (non-regulatory) GCCS because it is possible that GCCS design, monitoring, recordkeeping, and reporting requirements could be avoided indefinitely through the use of a non-regulatory GCCS that may not provide the same level of control as required by the EPA landfills regulations. Another commenter thinks that Tier 4 could be conducted at landfills with a GCCS installed, but that the GCCS should follow typical operational conditions during the Tier 4 test. In other words, if portions of the site are typically offline due to decreased gas flow, the commenter thinks those portions must remain offline during Tier 4. Further, one commenter believes that no means of gas control whatsoever should be employed during the Tier 4 exemption.

Which areas. Commenters also recommended certain Tier 4 procedures for GCCS installation. They recommended conducting Tier 4 over the parts of the landfill that are required to install a GCCS, following the SEM methods currently established in 40 CFR part 60, subpart WWW. If no exceedances of 500 ppm over background concentration occur, then GCCS installation would not be required. Quarterly SEM would be conducted thereafter until the landfill or area of the landfill is closed. Closed areas would also be reviewed using the SEM approach, but if no exceedances occur, those closed areas would no longer be required to be tested.

Surface exceedances and corrective action. Regarding how many surface exceedances identified using Tier 4 should trigger GCCS installation requirements, commenters generally supported some form of corrective action allowance. Some commenters recommended that if an exceedance occurred during Tier 4 SEM testing, then landfill owners or operators should follow the same procedures and timelines for remediation and re-monitoring as outlined in 40 CFR part 60, subpart WWW. These commenters further suggested that if an exceedance could not be remediated under the existing subpart WWW procedures, then the landfill would be required to prepare a GCCS design plan within 1 year of the initial exceedance and install a GCCS within the monitored area within 30 months of the initial exceedance. One commenter claimed that a lack of corrective action would cause facilities to avoid using Tier 4, causing it to seldom be used. Another commenter recommended some level of corrective action, because a single exceedance would not mean that LFG emissions were sufficient to necessitate GCCS installation. One commenter recommended providing a short period of time for corrective action and re-testing before GCCS installation. Other commenters recommend that Tier 4 SEM be modified to allow for a single, 10-day corrective action period for each exceedance of the 500 ppm threshold. Another commenter agreed to allow 10 days to correct the first exceedance, but also recommended allowing 10 days to correct the second exceedance, 1 year from the third exceedance to prepare the GCCS design plan, and 30 months from the initial exceedance to install the GCCS.

Order of tiers. In regards to moving through the tiers, commenters presented one of two opinions. Some commenters suggested that Tier 4 be available for use in place of or in addition to performing a Tier 1 or Tier 2 analysis. Several commenters suggested that Tier 4 could be employed at any point following a Tier 1 or Tier 2 test where the calculated NMOC emission rate was greater than the NMOC threshold for installing a GCCS. On the other hand, another commenter suggested that Tier 4 become the new Tier 3.

Threshold concentration. Commenters disagreed on the appropriate surface threshold concentration. Several commenters did not support a threshold below 500 ppm. Other commenters supported the adoption of a 200 ppm threshold for Tier 4 consistent with the CA Landfill Methane Rule (LMR) and incorporating an integrated limit of 25 ppm for Tier 4.

Frequency. There were a variety of opinions on how often SEM should be conducted for Tier 4. One commenter (suggested the SEM should be done annually instead of quarterly. Two other commenters were concerned with reducing the frequency to semi-annually unless the landfill no longer accepted waste. One of these commenters noted that if a landfill has already crossed the 34 Mg/yr NMOC threshold and the facility continues to receive solid waste, then the expected gas generation will continue to increase.

Wind restrictions. In the 2015 Emission Guidelines, the EPA proposed Tier 4 as an alternative site-specific emission threshold for determining when a landfill must install and operate a GCCS. For both Tier 4 SEM for determining the timing for GCCS installation and SEM to ensure a well-operated GCCS, the EPA considered limiting SEM during windy conditions. Specifically, in the 2015 Emission Guidelines, the EPA proposed that SEM must be terminated when the average wind speed exceeds 5 mph or the instantaneous wind speed exceeds 10 mph. However, the EPA also proposed that the Administrator may approve alternatives to this wind speed surface monitoring termination for landfills consistently having measured winds in excess of these specified limits.

Many commenters, including many state agencies, opposed limiting surface monitoring during windy conditions, stating that the wind restrictions would be a significant inhibitor to completing the required monitoring in many regions of the country due to typical windy conditions. Commenters also stated that it would be difficult to schedule and reschedule dedicated sampling crews.

Commenters claimed that climate conditions across the United States are too variable, that monitoring the wind using an anemometer is not representative of wind conditions where the surface monitoring is required (5–10 cm of surface), and that it is difficult to assemble monitoring teams and schedule monitoring events if they may be cancelled due to wind. One commenter supports the development of a Tier 4 SEM methodology that is functional during windy conditions.

Other commenters support the removal of the wind speed criteria and replacement with a requirement that surface monitoring be performed during typical meteorological conditions. Lastly, one commenter pointed out that the Tier 4 proposal is inconsistent with the ongoing quarterly SEM requirements since Tier 4 has wind restrictions and the ongoing quarterly SEM does not.

One commenter noted that EPA recognized wind speed can skew the results of SEM. Another commenter did not submit comments specific to the wind speed limitations; however, this commenter supported the SEM approach in the CA LMR, which does include wind speed restrictions.

Traverse pattern. One commenter recommended that EPA require enhanced SEM as part of Tier 4 demonstrations, including tighter walking patterns, consistent with the CA LMR.

Recordkeeping and reporting requirement. Some commenters believed the requirement to maintain all data was burdensome and that landfills should only be required to document exceedances of the 500 ppm threshold. These same commenters supported the notification requirement; however, one commenter believes landfills should not be required to reschedule monitoring events based on the availability of regulatory authorities. Furthermore, two commenters thought the notification requirement was acceptable but with the existing wind requirements, coordination with regulators could become even more challenging. Another commenter did not support the notification requirement because Tier 4 is voluntary.

Response: After considering public comments and input from small entity outreach, the EPA is finalizing Tier 4 SEM procedures for determining when a landfill must install a GCCS. Tier 4 provides operational flexibility and allows owners or operators of landfills that have exceeded the modeled NMOC emission rate threshold to demonstrate that site-specific surface methane emissions are below a specific threshold.

The EPA agrees with commenters that the Tier 4 SEM option will encourage landfill owners or operators to implement methane reduction practices, such as the use of oxidative landfill covers, organic waste diversion, and interim gas control measures and that such practices can be implemented more quickly and more cost-effectively than an NSPS-compliant GCCS. Such measures can directly affect surface emissions and when employed would help a landfill ensure that surface emissions are low. The EPA expects that delaying installation of a regulatory GCCS will not have a significant negative impact on public health or the environment, if the surface emissions can be demonstrated to be kept below the threshold with early control or voluntary control measures. In fact, the EPA expects that alternative methane reduction operational practices employed by landfill owners or operators who are interested in Tier 4 will reduce near-term emissions of LFG from the surface of the landfill.

Under Tier 4, the landfill owner or operator would continue to calculate the NMOC emission rate using Tiers 1, 2, or 3, and report results in the annual report to demonstrate that NMOC emissions are less than 50 Mg/yr. However, a landfill that can demonstrate that surface emissions are below 500 ppm over the entire perimeter of the landfill and along a pattern that traverses the landfill at 30-meter intervals for four consecutive quarters will not trigger the requirement to install a GCCS even if Tier 1, 2, or 3 calculations indicate that the 34 Mg/yr threshold has been exceeded. Regarding frequency of monitoring, the EPA is finalizing an approach where quarterly SEM is required for Tier 4 indefinitely unless the landfill is closed. Closed landfills would be able to reduce the frequency of surface emission monitoring to annually after four quarters of no surface exceedances of 500 ppm methane or greater. Landfills that are closed are on the downside of their gas generation profile.

Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr but less than 50 Mg/yr using Tier 1 or Tier 2. Tier 3 was not required because tiers 1 and 2 are more commonly used. If both Tier 1 and Tier 2 indicate NMOC emissions of 50 Mg/yr or greater, then Tier 4 cannot be used. This change avoids a potential conflict between what is required under the Emission Guidelines and what is required by the landfills NESHAP for landfills with modeled NMOC emissions greater than 50 Mg/yr. It also ensures that landfills with modeled NMOC emissions at 50 Mg/yr or more continue to be required to install controls at an NMOC level and on a schedule that is at least as stringent as the current NSPS (40 CFR part 60, subpart WWW). To demonstrate that NMOC emissions are less than 50 Mg/yr according to Tier 1 and Tier 2, landfill owners or operators will continue to calculate the NMOC emission rate and report results annually.

If the landfill opts to use Tier 4 for its emission threshold determination and there is any measured concentration of methane of 500 ppm or greater from the surface of the landfill, the owner or operator must install a GCCS, and the landfill cannot go back to using Tiers 1, 2, or 3. Once there is any measured concentration of methane of 500 ppm or greater from the surface of the landfill, the EPA is requiring a GCCS to be installed and operated within 30 months of the most recent NMOC emission rate report with a calculated NMOC emission rate of 34 Mg/yr or greater according to Tier 2. Starting the 30 months from the most recent NMOC emission rate report ensures that a GCCS is installed in a timely manner. The EPA believes that if a landfill owner or operator chooses to use Tier 4 SEM, it is appropriate to require the installation and operation of a GCCS when any reading of 500 ppm or greater is detected during the quarterly SEM event. Since Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr NMOC, but less than 50 Mg/yr using Tier 1 or Tier 2, we would expect the methane emissions at the landfill to be below the 500 ppm threshold. If an exceedance of the threshold is detected, it would be indicative of higher emissions than would normally be expected at a landfill.

The EPA is requiring installation of a GCCS upon any measured concentration of methane of 500 ppm or greater from the surface of the landfill—without any corrective action, to ensure that landfills employ operational practices that minimize emissions. A reading of 500 ppm methane for a landfill that has modeled NMOC emissions greater than or equal to 34 Mg/yr NMOC would indicate that the landfill conditions warrant installation of a GCCS.

The EPA selected a 500 ppm threshold for Tier 4 because 500 ppm is consistent with the level the EPA determined to be appropriate to demonstrate that a GCCS is well-designed and well-operated. In other words, when conducted properly, SEM is a good indicator of how well a GCCS is operating overall. For landfills without a GCCS (including those that may be using other LFG mitigation strategies), the level of 500 ppm methane will demonstrate that site-specific surface methane emissions are as low as those allowed at a landfill with a well-operated and well-designed GCCS in place. (See the docketed memorandum ''Establishing a Site-Specific Emission Threshold Alternative for MSW Landfills, 2015.'') Therefore, the EPA believes this alternative site-specific concentration threshold will achieve the goal of minimizing methane emissions to the atmosphere. In addition, this approach is consistent with the surface concentration threshold approach in the CA LMR.

In response to public comments concerned with implementation of Tier 4 with wind speed restrictions, the EPA is retaining a wind speed limitation but allowing the use of a wind barrier when onsite wind speed exceeds the limits in the regulation. The EPA is also providing additional clarifications about probe placement (as described in section IV.A.2 of this preamble) for Tier 4 SEM. In the proposed NSPS (80 FR 52136), the EPA acknowledged concerns about the accuracy of SEM under windy conditions. The EPA is including the wind speed restriction, because air movement can affect whether the monitor is accurately reading the methane concentration during surface monitoring. Because Tier 4 is an optional emission threshold methodology, the EPA believes that wind speed restrictions and the use of wind barriers are appropriate to ensure the reliability of the results, which in turn determine the timing of GCCS installation. We also refined the wind speed criteria to account for gusts up to 10 mph and clarified that measurements must be terminated if the average wind speed exceeds 25 mph.

Regarding landfills equipped with a non-regulatory GCCS, the EPA is allowing the non-regulatory GCCS to be in operation during the Tier 4 SEM demonstration, but only if the non-regulatory GCCS has operated for at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration (6,570 hours), as discussed below. The EPA recognizes that many landfills have acted early to control their emissions and installed a GCCS before surpassing the size and NMOC emission thresholds in the landfills regulations in order to recover and utilize LFG methane for beneficial use, flare for carbon credits, control odors, or meet state-specific regulations that may be more stringent than the federal NSPS standards. Thus, during the SEM demonstration, the non-regulatory GCCS must continue to operate as it normally would to collect and control as much LFG as possible. Although these landfills do not operate their GCCS under the landfills NSPS, they employ the same technology that would be applied to comply with the landfills NSPS. Many of these non-regulatory GCCSs are located at sites that are likely to eventually exceed the NSPS size and NMOC emissions thresholds and thus if no exceedances are identified during a Tier 4 SEM, the system is operating at a level consistent with the landfills NSPS collection and control requirements and operational standards at a point in time earlier than when federal regulations would require. These near-term methane reductions from non-regulatory GCCS are beneficial to the environment and the goal of achieving short-term emission reductions of methane, a potent greenhouse gas. In addition, landfill owners or operators have incentive to operate the GCCS as efficiently as possible to collect and control LFG to avoid surface exceedances, as it would reduce paperwork requirements associated with the compliance provisions of the landfills NSPS. The non-regulatory GCCS would have to be robust to keep readings below 500 ppm methane during an SEM demonstration.

To not allow the Tier 4 demonstration while a non-regulatory GCCS is in operation under these circumstances would create a disincentive for landfill owners or operators to install control systems voluntarily before emissions reach the regulatory threshold for review. The requirement to operate the GCCS at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration (described below) will ensure that the non-regulatory GCCS is in regular use and thus represents accurate operation of the facility.

The landfill owner or operator is allowed to operate the non-regulatory GCCS during the Tier 4 demonstration, but only if the non-regulatory GCCS has operated for at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration (6,570 of 8,760 hours). To demonstrate that the non-regulatory GCCS operated at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration, landfill owners or operators must keep records of the total operating hours of the gas collection system as measured for each destruction device (*i.e.*, at the flare, engine, or other destruction device), as well as the annual operating hours where active gas flow was sent to each destruction device. If the non-regulatory GCCS has not operated at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration, then the landfill is not eligible for Tier 4. The EPA seeks to encourage use of voluntary non-regulatory GCCS systems for early gas collection before emissions reach the regulatory threshold for review, while still allowing landfill owners and operators to use Tier 4 surface emissions monitoring approach to determine if a GCCS is required. We believe that requiring the operation of the non-regulatory GCCS at least 75 percent of the hours during the 12 months leading up to the Tier 4 SEM demonstration (described below) will ensure that the non-regulatory GCCS is in regular use and thus results would be representative of the operation of the landfill.

Regarding other recordkeeping and reporting requirements associated with Tier 4, the EPA is finalizing the requirement to retain all surface data readings, including calibration data and traverse path and sampling location data based on GPS coordinates up to 5 decimal places. This approach will improve transparency of Tier 4 results, and make them readily available to any inspector coming to the landfill. Further, many sites already use data loggers to collect and store SEM readings and evaluate geospatial surface emission trends over time and the EPA disagrees that it would be overly burdensome to record these data and maintain them on-site. While the final rule is specifically requiring an electronic record of the latitude and longitude coordinates of each surface measurement, the EPA is not specifying a file extension for storing a record of an actual digital map file because each landfill or each regulatory agency may employ different GIS mapping or data management software programs. Instead, the EPA believes the electronic record of latitude and longitude coordinates associated with each surface emission sample will be more appropriate to withstand variation in technology versions over time or across different agencies, while still providing for a record format that can be easily converted into a map. The records will also include wind speed data, a timestamp (to the nearest second) of when the sample collection begins, and a log of the length of time each sample was taken (*e.g.*, the time the probe was held over the surface for each sample). The EPA is also finalizing a recordkeeping requirement to take and store digital photographs of the instrument setup. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration. The EPA believes these records will help provide credibility to the Tier 4 sampling results.

The EPA is also finalizing a requirement to notify delegated authorities 30 days prior to the Tier 4 test so that officials can be present to observe the SEM. This notification is consistent with other notification requirements for stack testing. This notification requirement will also mitigate concerns that the SEM is being conducted incorrectly and ensure transparency of results achieved during the SEM approach. In the event the Tier 4 SEM is postponed due to weather conditions or other unforeseen events, the EPA is requiring the owner or operator to notify the delegated authority to arrange a rescheduled Tier 4 SEM date.

Emerging Measurement Technologies. Today's rulemaking provides certain MSW landfill owners or operators the option of using either modeling or the Tier 4 SEM approach to determine whether controls are required to be installed at specific landfills. Current modeling approaches, which rely on the decomposition rate of different waste streams buried in a landfill, are prone to uncertainties due to inaccuracies in input data and often unverifiable assumptions. Current surface emission measurement methodologies can also have associated uncertainties.

New methane emissions measurement methodologies are emerging that are anticipated to provide landfill methane emission rates (mass per unit time) over time, thereby reducing significantly the uncertainty associated with current modeling and emission measurements approaches. Two promising examples of new methane measurement methodologies being used by research groups to quantify landfill methane emissions are mobile tracer correlation (TC)[41][42][43][44] and discrete area source eddy covariance (DASEC).[45]

1. *Mobile tracer correlation.* This methodology provides a "snap-shot in time" assessment of whole facility methane emissions using on-site release of atmospheric tracer gases. It provides a total mass emission rate of methane (or other gas) per unit of time. An instrumented vehicle driving 1 km to 4 km downwind of the landfill simultaneously measures the emitted landfill methane plume along with the superimposed tracer gas release. The landfill methane emission rate is determined through a simple ratio to the known tracer gas release rate. The technique has been demonstrated using a variety of tracer gases and instruments by a number of groups to investigate emissions from landfills and other sources. The mobile tracer correlation approach is under development by the EPA as a Category C "other test method (OTM)" with potential posting in 2017 (*https://www3.epa.gov/ttnemc01/prelim.html*).

2. *Eddy covariance (EC).* This micrometeorological method estimates the source emission rate from the vertical wind speed and gas concentration above the emitting surface. This technique measures the emissions flux in mass of methane (or other gas) per unit area. The technique is well-established for measurement of emission fluxes from spatially-extended homogenous sources, such as very large, flat fields. Discrete area source eddy covariance (DASEC) is an application of EC to finite, heterogeneous area sources. This application of EC has been recently demonstrated on landfills, although method development questions on the effects of topography and variable observational foot print remain. DASEC provides the potential for long term (near continuous) measurements of discrete sections of a landfill using solar-powered on-site instrumentation. Development of this type of long term measurement capability is critical to better understand and track changes in landfill emissions overtime that may be caused by both site management and atmospheric factors.

In sum, as noted above, these techniques are still being investigated and additional work will be needed before the EPA can deem them ready for use in this application. Once additional research is completed, we believe that DASEC used in combination with mobile TC will provide a characterization of methane landfill emissions with significantly reduced uncertainty over current models or measurement techniques.

C. Changes To Address Closed or Non-Productive Areas

The EPA proposed criteria that allow a landfill owner or operator to cap or remove the GCCS from certain areas of the landfill where gas generation is expected to be diminished. Specifically, the 2014 proposed NSPS allowed GCCS removal when the landfill is closed, the GCCS has been operated for a minimum of 15 years, and the NMOC gas produced by the landfill is calculated below 40 Mg/yr for three consecutive quarters.

Comment: Commenters opposed the 15-year criteria for GCCS equipment, stating that the requirement is arbitrary and does not account for the site-specific conditions. One commenter added that the 15-year criteria presents significant compliance challenges and costs for a facility and the NSPS presents few options to address low flow and gas quality conditions. Another commenter contended that the length of time a GCCS has been operating in a portion of a landfill is unrelated to the productivity of that area and that the age of the waste is more relevant. Other commenters believe that regardless of how long a GCCS system has actually been in operation, closed landfills should be able to discontinue operations based on site-specific emission levels. One commenter believes that a closed MSW landfill should be able to remove NSPS control requirements once the site demonstrates that it emits less than the emissions threshold based on actual LFG flow and site-specific NMOC concentration in accordance with 40 CFR 60.764(b) regardless of the age of the GCCS or how long it has operated.

Several commenters noted that the provision provided in the 2015 Emission Guidelines to allow landfills to demonstrate the GCCS could not be operated for 15 years due to declining flow was vague, and more guidance was needed to provide instructions to landfills on how to demonstrate this to regulators.

Response: After considering public comments, the EPA is finalizing criteria for capping, removing, or decommissioning the GCCS that are similar to the criteria in 40 CFR part 60, subpart WWW, but have been adjusted to reflect the NMOC emission threshold in the final rule and to provide flexibility on the requirement to operate the GCCS for 15 years. The final criteria are: (1) The landfill is closed, (2) the GCCS has been in operation for 15 years or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow, and (3) three successive tests for NMOC emissions are below the NMOC emission threshold of 34 Mg/yr.

The EPA is requiring that NMOC emission rate of the landfill must be less than 34 Mg/yr on three successive test dates. This makes the threshold for removing a GCCS consistent with the threshold for installing a GCCS. In addition, the EPA is retaining the requirement to operate the GCCS for 15 years, but is providing flexibility to address declining gas flow in areas where the GCCS has not operated for 15 years. If the landfill is closed and the NMOC emission rate is less than 34 Mg/yr, but the GCCS has not operated for 15 years, the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows. The EPA is providing this flexibility to address areas of declining gas flows due to the age of the waste, arid climate, or low organic content. Given that there are unique situations that could cause low gas flow, or low gas quality which would cause a GCCS to be unable to operate for 15 years, the EPA is not providing prescriptive criteria for how a landfill owner or operator can demonstrate that a GCCS could not operate for 15 years and will proceed with a site-specific approach for handling these unique cases. Some examples of data elements that could be used to demonstrate a GCCS is unable to operate may include supplemental fuel use at the flare to sustain operations or LFG quality sample measurements showing methane content lower than what is viable for combustion in the destruction device.

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[42] Quantification of methane emissions from 15 Danish landfills using the mobile tracer dispersion method, Mønster, J.; Samuelsson, J.; Kjeldsen, P.; Scheutz, C. Waste Manage. 2015, 35 (0), 177–186.

[43] Methane Emissions Measured at Two California Landfills by OTM–10 and an Acetylene Tracer Method, Green, R.B., Hater, G.R., Thoma, E.D., DeWees, J., Rella, C.W., Crosson, E.R., Goldsmith, C.D., Swan, N., Proceedings of the Global Waste Management Symposium, San Antonio, TX, October 3–6, 2010.

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[45] Using Eddy Covariance to Quantify Methane Emissions from a Dynamic Heterogeneous Area, Xu, L., Lin, X., Amen, J., Welding, K. and McDermitt, D. Impact of changes in barometric pressure on landfill methane emission. Global Biogeochemical Cycles 2014, 28(7), pp. 679–695.

D. Startup, Shutdown, and Malfunction Provisions

In July 2014, the EPA proposed that the standards in subpart XXX apply at all times, including periods of startup or shutdown, and periods of malfunction. In addition, the proposed NSPS included recordkeeping and reporting requirements for all landfill owners or operators to estimate emissions during such periods.

Similarly, the EPA proposed standards that apply at all times in the August 2015 proposed Emission Guidelines. However, the EPA considered how the landfill emissions differ from those generated by industrial or manufacturing sources. Specifically, the EPA noted that landfill emissions are produced by a continuous biological process that cannot be stopped or restarted. Therefore, the primary concern related to SSM is with malfunction of the landfill GCCS and associated monitoring equipment, not with the startup or shutdown of the entire source. SSM periods that we have determined should be covered by the work practice standard are those periods when the landfill GCCS and associated monitoring equipment are not operating.

To address these SSM periods, the EPA proposed in the 2015 Emission Guidelines that in the event the collection or control system is not operating the gas mover system must be shut down and all valves in the GCCS contributing to venting of gas to the atmosphere must be closed within 1 hour of the collection or control system not operating. This provision is consistent with 40 CFR part 60, subpart WWW. Additionally, the EPA proposed recordkeeping of combustion temperature, bypass flow, and periods when the flare flame or the flare pilot flame is out. The EPA received numerous comments on the 2014 proposed changes to the NSPS and the additional proposed edits made in the 2015 Emission Guidelines. A summary of these comments is presented below.

Sierra Club v. *EPA, 551 F.3d 1019 (D.C. Cir. 2008).* Many commenters stated that the *Sierra Club* decision, which addressed SSM conditions in EPA rules, applies only to rules with numerical emission limits and not to rules that are specified as a work practice. One of these commenters elaborated that *Sierra Club* applies to section 111 of the Clean Air Act. Therefore, the commenter concluded that landfills subject to the NSPS are not bound by the findings of *Sierra Club* and instead they are legally allowed to develop a clear and achievable landfill rule by considering the unique circumstances that a landfill is a biological process that cannot be stopped or restarted and that the gas collection and control systems must periodically be shut down for maintenance, repair, and expansion.

Retain the 5 day/1-hour exemption for SSM events. Many commenters, including affected industry commenters and some state agencies, disagreed with removing the provisions in 40 CFR part 60, subpart WWW which allow for a 5-day exemption period for collection systems and 1-hour exemption period for treatment or control devices. These commenters indicated that by removing this provision, state and local agencies could misconstrue the rule to require that a landfill must operate the gas collection system at all times, even during SSM, including periods of collection system construction, expansion, and repair. These commenters suggested instead of removing the exemption provision during periods of SSM, compliance can be maintained as long as the landfill owner or operator minimizes emissions of LFG by following the applicable work practices and restores the system to operation as expeditiously as practicable.

One of the state agency commenters, suggested that the 5-day and 1-hour time limitations in subpart WWW are appropriate for most situations and instead of removing these exemptions, the new subpart XXX could provide a mechanism for the facility to apply to the Administration for an extension of those timeframes. On the contrary, one state agency commenter and an NGO agreed with the standards applying at all times, including periods of SSM.

If the 5 day/1-hour exemption is not retained, the EPA should add a work practice standard for SSM events. One commenter was concerned that the preamble language for the 2014 proposed Emission Guidelines does not clarify how a landfill can demonstrate compliance with the standard during SSM events, stating that "compliance with proposed 40 CFR 60.34f(e) does not constitute compliance with the applicable standards in proposed 40 CFR 60.36f" and that "by shutting down flow to the flare or other control devices a source is unlikely to be in violation of the 98 percent emission reduction requirements since there will be no gas flowing to the control device" (emphasis added, see 80 FR 52134–52135). This commenter stated that the EPA must clarify this confusion and specify a clear set of work practices (*e.g.,* shut down of the gas mover system and prevention of venting) that constitute compliance during SSM periods when the collection or control system is not operated. Several other industry commenters and the U.S. Small Business Administration also asked that the rule specifically accommodate periods when the collection system is not operating during activities associated with construction, expansion, repair, replacement, testing, upgrades, or other maintenance of the system or its components.

Reporting requirement to estimate NMOC emissions whenever the collection system or control system is not operating. Two commenters representing a state agency and an NGO supported reporting NMOC emissions during SSM periods. Several industry commenters provided numerous technical arguments to explain the infeasibility of accurately estimating NMOC emissions during the short periods of SSM. For example, methods to estimate LFG emissions are based on site-specific variables that estimate LFG generation over the life of the landfill, typically on an annual basis, and cannot be used to estimate hourly or daily emissions. Accordingly, the commenters contended that it is technically and practically inappropriate to require landfill owners/operators to make this estimate for the time periods that the gas collection or control systems are not operated, given the substantial technical uncertainties involved in estimating these emissions over discrete, short-term time periods. Further, other commenters noted that emissions during SSM are expected to be very low, reporting SSM emissions is an onerous and meaningless exercise and is likely to overestimate emissions.

Two commenters asked that if the reporting requirement is retained, the EPA should limit the reporting to periods when the flare is free venting because these are the only emissions that can be estimated accurately. Several commenters asked EPA to develop guidance on how to estimate emissions during SSM if this requirement is retained in the final rule.

Several commenters stated that because there should be no deviation from the rule when the work practices of the rule are followed, there are no excess emissions, and the reported emissions are not relevant to determining compliance. Commenters are concerned that if estimated NMOC emissions are reported, states will deem the reported emissions to be "excess emissions," which could be treated as a serious violation. Therefore, reporting these emissions poses the risk of state or citizen suits for enforcement, even when a landfill is following all requirements of the rule.

Other Comments. Several commenters added that because SSM provisions apply to numerical emission limitations and a numerical limitation applies only to the control device (not the collection devices), commenters stated that SSM provisions should address only operation of the control devices during periods when LFG is routed from the collection system.

Several commenters indicated that the EPA must retain an allowance of 5 days/1 hour for downtime events so that states do not file enforcement actions for downtime events that are shorter than the previously allowed 5 days/1-hour allowance. These commenters also asked the EPA to clarify that the 1-hour allowance for shutting vents allows for free venting for 1 hour such that venting during this time period does not constitute "excess emissions" that can be deemed a serious violation.

Response: The EPA recognizes that landfills are not typical affected sources that can be started up or shut down. Landfill emissions are produced by a continuous biological process that cannot be stopped or shut down. The EPA also recognizes that the primary concern is with malfunction of the LFG collection and control system and associated monitoring equipment, not with the startup, shutdown, or malfunction of the entire source. The EPA received extensive comments on the proposed requirements applicable to landfills during SSM events, as summarized above. Consistent with the recent Court decision that vacated the exemption in 40 CFR 63.6(f)(1) and (h)(1) for SSM (*Sierra Club* v. *EPA,* 551 F.3d 1019), the EPA has established standards in this rule that apply at all times.

The general provisions in 40 CFR part 60 provide that emissions in excess of the level of the applicable emissions limit during periods of SSM shall not be considered a violation of the applicable emission limit *unless otherwise specified in the applicable standard* (see 40 CFR 60.8(c)) (emphasis added). As reflected in the italicized language, an individual subpart can supersede this provision.

The EPA is finalizing a requirement in 40 CFR 60.465(e) whereby the standards apply at all times, including periods of SSM. However, the final rule reaffirms the work practice during periods of SSM (40 CFR 60.763(e)). During these SSM events, owners or operators must shut down the gas mover system and close within 1 hour all valves in the GCCS contributing to venting of the gas to the atmosphere. This provision is consistent with 40 CFR part 60, subpart WWW. The landfill owner or operator must also keep records and submit reports of all periods when the collection and control device is not operating. The EPA, however, is not reinstating the 5-day exemption for SSM periods because the provision provides an exemption from compliance with the standard during SSM periods, which the EPA does not have the authority to do under the reasoning of the Sierra Club decision.

E. Definitions of Treated Landfill Gas and Treatment System

The EPA proposed clarifications related to LFG treatment in the proposal. Specifically, the EPA proposed to clarify that the use of treated LFG is not limited to use as a fuel for a stationary combustion device but also allows other beneficial uses such as vehicle fuel, production or high-Btu gas for pipeline injection, and use as a raw material in a chemical manufacturing process. The EPA also proposed to clarify what constitutes LFG treatment by updating the definition to include specific numerical values for filtration and dewatering in order to provide long-term protection of the combustion equipment. Specifically, the 2014 proposed NSPS included a treatment definition that required the water dew point of LFG to be reduced to at least 45 degrees Fahrenheit, rather than lowered by at least 20 °F, and specified a location for the temperature monitoring device that would demonstrate continuous compliance with the 45 degrees Fahrenheit requirement. As an alternative to these numerical values, the EPA also requested comment on an alternative definition for treatment system as a system that filers, de-waters, and compresses LFG. Additionally, the EPA requested comment on the use of treatment system monitoring plans to document procedures to ensure that the LFG has been adequately treated for the intended use.

Similarly, the 2015 proposal to revise the Emission Guidelines for existing landfills included the clarification that the use of treated LFG is not limited to use as a fuel for a stationary combustion device and proposed a definition for LFG treatment. Specifically, the Emission Guidelines proposed a definition of treatment system as a system that filters, de-waters, and compresses LFG for sale or beneficial use. This definition did not include specific numerical values in order to allow tailoring of the level of treatment to the type and design of the specific combustion or other equipment for other beneficial uses in which LFG is used.

Further, the Emission Guidelines included a proposed requirement for owners or operators to develop a site-specific treatment system monitoring plan that would include monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for the intended end use of the treated LFG. Additional records that demonstrate that such parameters effectively monitor filtration, de-watering, and compression system performance were also proposed.

Consistent with public comments received on previous landfills documents (67 FR 36475, May 23, 2002; 71 FR 53271, September 8, 2006; 79 FR 41796, July 17, 2014; 79 FR 41772, July 17, 2014), as well as input from participants in small entity outreach, the EPA is finalizing a definition of treatment system as a system that filters, de-waters, and compresses LFG to levels determined by the landfill owner or operators based on the beneficial end use of the gas. The EPA agrees with commenters that the extent of filtration, de-watering, and compression can be site-specific and equipment-dependent, and that different levels of LFG treatment are required for the protection of combustion devices that use treated LFG as a fuel.

Many commenters on the proposed NSPS opposed basing LFG treatment on specific numerical values for filtration and de-watering because this "one-size-fits-all" approach was not appropriate, and provided no emission reductions.

One commenter specifically noted the impact of the costs of these requirements on small entities. Additional discussion of the concerns related to costs can be found in the Response to Comments document located in the docket for this rulemaking.

Commenters also supported the use of a site-specific treatment system monitoring plan in place of the proposed numeric values and continuous monitoring and recordkeeping requirements. However, these commenters opposed submission of these monitoring plans for approval from the Administrator. Specifically, the commenters stated that LFG treatment systems are closed loop systems that process LFG for beneficial use and are not control devices that are subject to emission limits. Two commenters cited specific examples from recent rulemaking actions that have similar operation, maintenance, and monitoring plans that are prepared, followed, maintained, and made available to the Administrator for review upon request. For example, the greenhouse gas reporting program (GHGRP) rules require each reporting facility to prepare, follow, and maintain a monitoring plan which is made available to an inspector upon request. Another example cited included the Operation, Maintenance and Monitoring Plan required in the NESHAP for Brick and Structural Clay Products Manufacturing and the NESHAP for Clay Ceramics Manufacturing which were finalized on September 24, 2015.

In consideration of these comments, the EPA is finalizing a requirement that owners or operators must develop a site-specific treatment system monitoring plan that includes monitoring parameters that address filtration, de-watering, and compression to ensure the LFG treatment system is properly operating for the intended end use of the treated LFG. The EPA is also finalizing a requirement that landfills owners or operators seeking to demonstrate compliance using a LFG treatment system must maintain and operate all monitoring systems in accordance with the site-specific treatment system monitoring plan and maintain records of parameters that ensure the treatment is operating properly for the intended use of the gas. The EPA is not finalizing the requirement that these monitoring plans obtain Administrator approval because the treatment system monitoring plan must be submitted as part of the landfill's Title V air pollution control permit application and these monitoring parameters would be integrated into the permit as enforceable conditions (*i.e.*, the landfill monitors the treatment system monitoring parameters and maintains them in the specified range).

The EPA is also finalizing revisions to 40 CFR 60.762(b)(2)(iii)(C) to clarify that if treated LFG cannot be beneficially used for reasons such as end-user capacity limitations, market conditions for gas sales, or unforeseeable shutdowns of the beneficial use equipment, then the treated gas must be controlled in a flare. The flare requirements apply to any gas routed to flares, regardless of whether the LFG is treated. The intent is to require all gas not used for beneficial use to be controlled in either a non-enclosed flare or a control system designed to reduce NMOC by 98 weight-percent to an outlet NMOC concentration of less than 20 ppm, in accordance with 40 CFR 60.762(b)(A) or (B).

F. Other Corrections and Clarifications

1. Test Methods

In the 2014 proposed NSPS, the EPA did not include EPA Method 18 or EPA Method 25A. In the 2015 proposed Emissions Guidelines, the EPA proposed to include Method 25A based on public comments received on the 2014 proposed NSPS and the EPA's recognition that the use of Method 25A is necessary for measuring outlet concentrations less than 50 ppm NMOC. However, the EPA did not propose to include Method 18 (80 FR 52112) because the EPA had determined that Method 18 was not appropriate or cost effective for testing the large number of NMOCs found in landfill samples. Specifically, 40 target analytes are listed in the current landfills section of AP–42 and 160 analytes are listed in the draft landfills section AP–42. The EPA determined that the extensive quality assurance required by the method makes the method technically and economically prohibitive for all the potential target analytes.

Comment: Commenters (requested that the EPA retain both Methods 18 and 25A in the final rule and cited a number of reasons that the EPA should retain them, including both technical and legal reasons. Commenters stated that landfill owners or operators have relied on these test methods to demonstrate compliance for performance testing of enclosed flares as a part of EPA policy for over a decade under 40 CFR 60.764 [60.754]. One commenter emphasized the importance of Method 25A because its use is required for many sources with an outlet concentration of less than 50 ppmv NMOC as carbon.

The commenters noted that the majority of LFG destruction devices show NMOC concentrations below 50 ppmv as carbon. Due to issues with Methods 25/25C in measuring NMOC content under this level, commenters observed that the proposed NSPS rule change effectively removes the ability to accurately measure compliance with the 20 ppmv outlet standard for a large class of enclosed combustors. Commenter believes that Method 25A is the superior testing methodology for certain circumstances and is more commonly used in practice. Commenters cited limitations of Method 25, including sensitivity of the test method to water and carbon dioxide and the inability to measure NMOC content below 50 ppmv as carbon.

Commenters also contended that the EPA did not provide any justification for removing these methods. Commenters stated that the EPA did not provide any factual data, methodology, or any legal or policy justification for its proposed exclusion of Method 25A or Method 18; thus commenters claimed that the EPA did not satisfy the notice-and-comment requirements of the CAA.

Response: After considering public comments, the EPA is including both EPA Method 25A and EPA Method 18 in the final landfills regulations (40 CFR part 60, subparts Cf and XXX).

After reviewing the comments received on the NSPS for new landfills proposed on July 17, 2014, the EPA recognizes that the use of Method 25A is necessary for measuring outlet concentrations less than 50 ppm NMOC. EPA Method 25A determines total gaseous organic concentration of vapor (total organic compounds). Because the rule regulates NMOC, EPA Method 18 or Method 3C is needed to determine the concentration of methane in the gas stream. Method 25A, in conjunction with Methods 18 or 3C (for methane), can be used to determine NMOC for the outlet concentrations less than 50 ppm NMOC as carbon. Note that Method 25A flame ionization detectors are insensitive to formaldehyde.

While Method 18 may be used in conjunction with Method 25A for methane or specific compounds of interest, there are limitations on the number of analytes that can be reasonably quantified in measuring the sum of all NMOCs. With the possibility of 40 target analytes listed in the current landfill section of AP–42 (160 analytes in the draft landfill AP–42), Method 18 is not an appropriate or cost effective method to test all NMOCs found in landfill samples. The extensive QA required by the method makes the method technically and economically prohibitive for all the potential target analytes.

2. Tier 2 Sampling Procedure

The EPA continues to believe that the number of samples required per hectare is appropriate for Tier 2. As described in 40 CFR 60.764, the EPA is reaffirming that the two samples are required per hectare and if additional samples are taken, all samples must be used in determining the site-specific NMOC concentration. Landfill owners or operators must also ensure that the probes are evenly distributed over the landfill surface. The EPA explored a number of methods, including a statistical approach, when establishing requirements for the number and location of Tier 2 samples for the original rule. Public commenters raised significant concerns with approaches based on equations. As such, the EPA determined that a simplified method (2 samples per hectare) was best and received no public comments to the contrary.

3. Specifications for Active GCCS

The EPA received a comment saying that proposed 40 CFR 60.769(a)(1) referenced the term "perimeter areas" and noted that this term was not well defined or explained. The EPA has removed this phrase to avoid confusion. The intent is that all wells installed in the boundary of the waste mass that are connected to the active GCCS should be operated according to 40 CFR 60.769. The final rule language is clearer on this point.

The EPA also added a phrase to 40 CFR 60.769(a)(1) based on public comment to ensure that GCCS design allows for the ability to isolate a well or section and still be able to operate the remainder of the active collection system.

4. Wellhead Pressure Monitoring

In response to public comments, we are clarifying the location and type of pressure required to be measured monthly at each wellhead to demonstrate whether the requirement to maintain negative pressure is being met.

5. Definition of Modification

In the 2014 proposed NSPS, the EPA included "mass or volume" in the definition of modification. Based on public comments, which correctly point out that mass can change based on the density of the waste received, we are finalizing the definition of modification consistent with the definition in subpart WWW, which is based on volume only. We also changed the reference to "horizontal" to "lateral" within the modification definition to be consistent with the defined term "lateral expansion".

6. Definition of Sludge and Solid Waste

We are updating the definitions of sludge and solid waste to reference the terms as defined in 40 CFR 258.2 for consistency with the terms as defined in RCRA.

7. Non-degradable Waste

The EPA is reaffirming that all the waste must be included in calculating the design capacity. Non-degradable waste cannot be subtracted from the permitted landfill design capacity. However, non-degradable waste can be subtracted from the mass of solid waste when calculating the NMOC emission rate because such waste would not produce NMOC emissions. Non-degradable waste is defined as waste that does not break down through chemical or microbiological activity. Examples include concrete, municipal waste combustor ash, and metals. Petroleum contaminated soils (PCS) and paper mill sludges likely contain organics that could be emitted as MSW LFG emissions. Therefore, emissions from PCS and sludges would need to be accounted for in the emission estimate only. The EPA is also reaffirming that documentation of the nature and amount of non-degradable waste needs to be maintained when subtracting the mass of non-degradable waste from the total mass of waste for NMOC emission rate calculations.

VII. Impacts of This Final Rule

For most NSPS, impacts are expressed 5 years after the effective date of the rule. However, for the landfills NSPS, impacts are expressed 10 years after the effective date (year 2025) because the landfills regulations require controls at a given landfill only after the NMOC emission rate reaches the level of the regulatory threshold, which may take a number of years. Further, once the NMOC emission rate is exceeded, the reporting and control timeframe allows 3 months to submit the first NMOC emission report and then 30 months after exceeding the NMOC emission threshold before the GCCS is required to be installed. Additionally, the regulations allow the collection and control devices to be capped or removed at each landfill after certain criteria are met, which includes having the GCCS operate a minimum of 15 years. Controls would not be required over the same time period for all landfills. The impacts are a direct result of control; therefore, the annualized impacts change from year to year. By 2025, over 80 percent of the greenfield landfills and modified landfills affected by the NSPS are expected to have installed controls and thus, the EPA considered the impacts of the final rule relative to the baseline in 2025.

The landfills dataset used for estimating the impacts of the NSPS is discussed in detail in the August 27, 2015 supplemental proposal for the NSPS (80 FR 52163). The EPA made several significant edits to the dataset since the August 2015 supplemental proposal, based on public comments received; new data made available from the landfills reporting 2014 emissions to 40 CFR part 98, subpart HH of the GHGRP; and consultations with EPA regional offices, and state and local authorities to identify additional landfills expected to undergo a modification within the next 5 years. After incorporating all of the updates to the inventory and adding the landfills expected to modify, the revised dataset to analyze the impacts of the final rule now has 137 landfills that commenced construction, reconstruction, or modification after July 17, 2014.[46] A detailed discussion of updates made to the dataset is in the docketed memorandum, "Summary of Updated Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations, 2016."

The methodology used for estimating the impacts of the NSPS is discussed in detail in the August 27, 2015 supplemental proposal to the NSPS (80 FR 52163). The EPA made several significant edits to the dataset since the August 2015 supplemental proposal based on public comments and comments on a separate peer review of the EPA Landfill Gas Energy Cost (LFGcost) model.[47] Notably, the EPA adjusted its assumption of gas collection efficiency to an average of 85 percent. The impacts analysis at the proposal or supplemental proposal did not apply a collection efficiency assumption. However, in consideration of public comments received and EPA assumptions in subpart HH of the GHGRP, and analyses performed for marginal abatement cost curves, the EPA has included an 85 percent average gas collection efficiency factor to reflect a more realistic indicator of GCCS performance.[48] In addition, Chapter 2.4 of the EPA AP–42 for MSW landfills cites a range of collection efficiencies for LFG between 60 and 85 percent, with an average of 75 percent. The EPA also adjusted electricity purchase price and anticipated revenue estimates using forecasted commercial retail electricity rate data and forecasted electricity generation price data for different Energy Information Administration (EIA) Electricity Market Module regions.[49] [50]

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[46] July 17, 2014, is the proposed date of the revised NSPS for MSW landfills in 40 CFR part 60, subpart XXX. A landfill opening or commencing construction on its modification after this date would become subject to this new subpart and would not be subject to the revised emission guidelines. The EPA cannot predict the exact month a model landfill will open so the analysis uses a cutoff year of 2014.

[47] See the docketed 2016 RIA for additional discussion of changes made on the methodology for estimating impacts as a result of the LFGcost peer review.

A detailed discussion of the methodology and equations used to estimate the impacts of the final rule are available in the docketed memorandum "Updated Methodology for Estimating Cost and Emission Impacts of MSW Landfill Regulations, 2016." The results of applying this methodology to the population of new or modified landfills potentially subject to the final rule are in the docketed memorandum "Revised Cost and Emission Impacts Resulting from the Landfill NSPS Review, 2016." Table 2 of this preamble summarizes the emission reductions and costs associated with the final rule.

TABLE 2—EMISSION REDUCTIONS AND COSTS FOR FINAL RULE IN YEAR 2025 AT NEW OR MODIFIED LANDFILLS

[2012$]

Option	No. of landfills affected[b]	No. of landfills controlling	No. of landfills reporting but not controlling[c]	Annual net cost (million $2012)	Annual NMOC reductions (Mg/yr)	Annual methane reductions (million Mg/yr)	Annual CO_2e reductions (million mt/yr)[d]	NMOC cost effectiveness ($/Mg)	Methane cost effectiveness ($/Mg)	CO_2e cost effectiveness ($/mt)[d]
Baseline (2.5 million Mg design capacity/50 Mg/yr NMOC)	128	103	25	90.4	10,520	1.7	41.4	8,600	54.6	2.2
Option (2.5 million Mg design capacity/34 Mg/yr NMOC)	0	12	−13	6.0[e]	281	.04	1.1	21,470	136	5.5

[a] Options in this table show the impacts of reducing the NMOC emission threshold below baseline levels for all landfills.

[b] Landfills are affected by the landfills NSPS based on design capacity. Once affected, they calculate and report emissions until they exceed the NMOC threshold, which triggers control requirements. Since we are not changing the size threshold, there are no incremental landfills affected.

[c] Since the number of landfills affected remains the same as the baseline, the number of landfills reporting NMOC (but not controlling) decreases since more landfills will control emissions under the final rule.

[d] Results do not include secondary CO_2 impacts.

[e] The annualized costs represent the costs compared to no changes to the current NSPS (*i.e.,* baseline) and include $11 million to install and operate a GCCS, as well as $0.08 million to complete the corresponding testing and monitoring. These control costs are offset by $5.1 million in revenue from electricity sales, which is incorporated into the net control costs for certain landfills that are expected to generate revenue by using the LFG to produce electricity.

A. What are the air quality impacts?

The EPA estimates that the final rule will achieve nearly an additional 3 percent reduction in NMOC from new, reconstructed, or modified landfills, or 281 Mg/yr, when compared to the baseline, as shown in Table 2 of this preamble. The final rule would also achieve 44,300 Mg/yr of methane reductions (1.1 million mtCO2e/yr). These reductions are achieved by reducing the NMOC threshold from 50 Mg/yr to 34 Mg/yr.

B. What are the water quality and solid waste impacts?

Leachate is the liquid that passes through the landfilled waste and strips contaminants from the waste as the leachate percolates. Precipitation generates the vast majority of leachate volume. Installation of a gas collection system will generate additional liquid, in the form of gas condensate, and it will be routed to the same leachate treatment mechanisms in place for controlling precipitation-based leachate. Collected leachate can be treated on site or transported off site to wastewater treatment facilities. Some landfills have received permits allowing for recirculation of leachate in the landfill, which may further reduce the volume of leachate requiring treatment. Additional liquid generated from gas condensate is not expected to be significant and insufficient data are available to estimate the increases in leachate resulting from expanded gas collection and control requirements.

The additional gas collection and control components required by this final rule have finite lifetimes (approximately 15 years) and these pipes and wells will be capped or disposed of at the end of their useful life. There are insufficient data to quantify the solid waste resulting from disposal of this control infrastructure.

Further, the incremental costs of control for the final rule of $6.0 million in 2025 (7 percent discount, 2012$) are not expected to have an appreciable market effect on the waste disposal costs, tipping fees, or the amount of solid waste disposed in landfills because the costs for gas collection represent a small portion of the overall costs to design, construct, and operate a landfill. The handling of waste by the private companies in the industry was estimated to generate $55 billion of revenue in 2011, of which landfilling contributed $13 billion, while a more recent estimate shows the U.S. non-hazardous solid waste services industry generated about $60 billion in annual revenues in 2015. These revenue estimates do not include activity related to publicly owned landfills. For more information, see the "Regulatory Impact Analysis for the Final Revisions to the Emission Guidelines for Existing Sources and the New Source Performance Standards in the Municipal Solid Waste Landfills Sector" (hereafter "2016 RIA") included in the docket. There is also insufficient information to quantify the effect increased gas control costs might have on the amount of solid waste disposed in landfills versus other disposal mechanisms such as recycling, waste-to-energy, or composting. Note that elements of this final rule—notably lowering the NMOC threshold to 34 Mg/yr—provide additional incentives to separate waste.

C. What are the secondary air impacts?

Secondary air impacts may include grid emissions from purchasing electricity to operate the GCCS components, by-product emissions from combustion of LFG in flares or energy recovery devices, and offsets to conventional grid emissions from new LFG energy supply.

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[48] USEPA. Global Mitigation of Non-CO_2 Greenhouse Gases: 2010–2030. EPA–430–R–13–011.

[49] See the docketed 2016 RIA for additional discussion of changes made to electricity pricing assumptions.

[50] To map existing landfill sites to EIA's Electricity Market Module regions, the sites' geospatial coordinates were overlayed on a map of the EMM regions. The AEO Electricity Market Module regions are commensurate with the eGRID2012 primary regions for which a shapefile is available at *https://www.epa.gov/energy/download-egrid2012-shapefiles.* For expected new landfills within a state the specific location is unknown, therefore the landfill is located at the state's centroid for purposes of mapping the site to an EMM region.

The secondary air impacts are presented as net impacts, considering both the energy demand and energy supply resulting from the final rule. The methodology used to prepare the estimated secondary impacts for this preamble is discussed in the docketed memorandum "Revised Estimates of Secondary Impacts of the Landfills NSPS Review, 2016."

While we do expect NO_X and sulfur dioxide (SO_2) emission changes as a result of these guidelines, we expect these changes to be small and these changes have not been estimated. The net impacts were computed for CO_2e. After considering the offsets from LFG electricity, the impacts of the final rule are expected to reduce CO_2 emissions by 26,000 metric tons per year. These CO_2 emission reductions are in addition to the methane emission reductions achieved from the direct destruction of methane in flares or engines presented in Table 2 of this preamble.

D. What are the energy impacts?

The final rule is expected to have a very minimal impact on energy supply and consumption. Active gas collection systems require energy to operate the blowers and pumps and the final rule will increase the volume of LFG collected. When the least cost control is a flare, energy may be purchased from the grid to operate the blowers of the LFG collection system. However, when the least cost control option is an engine, the engine may provide this energy to the gas control system and then sell the excess to the grid. Considering the balance of energy generated and demanded from the estimated least cost controls, the final rule is estimated to supply 0.07 million megawatt hours (MWh) of additional energy per year.

E. What are the cost impacts?

To meet the final rule emission thresholds, a landfill is expected to install the least cost control for combusting the LFG. The cost estimates evaluated each landfill to determine whether a gas collection and flare or a gas collection with flare and engine equipment would be least cost, after considering local power buyback rates and whether the quantity of LFG was sufficient to generate electricity. The control costs include the costs to install and operate gas collection infrastructure such as wells, header pipes, blowers, and an enclosed flare. For landfills for which the least cost control option is an engine, the costs also include the cost to install and operate one or more reciprocating internal combustion engines to convert the LFG into electricity. Revenue from electricity sales was incorporated into the net control costs using forecasted electricity generation price data from EIA Electricity Market Module regions. Testing and monitoring costs at controlled landfills include the cost to conduct initial performance tests on the enclosed flare or engine control equipment, quarterly surface monitoring, continuous combustion monitoring, and monthly wellhead monitoring. At uncontrolled landfills, the testing and monitoring costs include calculation and reporting of NMOC emission rates.

The nationwide incremental annualized net cost for the final rule is $6 million, when using a 7 percent discount rate (2012$). The annualized costs represent the costs compared to no changes to the current NSPS (*i.e.,* baseline) and include $11 million to install and operate a GCCS, as well as $0.08 million to complete the corresponding testing and monitoring. These control costs are offset by $5.1 million in revenue from electricity sales, which is incorporated into the net control costs for certain landfills that are expected to generate revenue by using the LFG to produce electricity.

F. What are the economic impacts?

Because of the relatively low net cost of the final rule compared to the overall size of the MSW industry, as well as the lack of appropriate economic parameters or model, the EPA is unable to estimate the impacts on the supply and demand for MSW landfill services. However, because of the relatively low incremental costs, the EPA does not believe the final rule would lead to substantial changes in supply and demand for landfill services or waste disposal costs, tipping fees, or the amount of waste disposed in landfills. Hence, the overall economic impact of the final rule should be minimal on the affected industries and their consumers.

G. What are the benefits?

This final action is expected to result in significant emissions reductions from new, reconstructed, or modified MSW landfills. By lowering the NMOC emissions threshold to 34 Mg/yr, the final NSPS would achieve reductions of 281 Mg/yr NMOC and 44,300 Mg/yr methane (1.1 million metric tons CO_2–Eq./yr). In addition, the final rulemaking is expected to result in the net reduction of 26,000 metric tons CO_2, due to reduced demand for electricity from the grid as landfills generate electricity from LFG.

This rule is expected to result in significant health and welfare benefits resulting from the climate benefits due to anticipated methane and CO_2 reductions. Methane is a potent GHG that, once emitted into the atmosphere, absorbs terrestrial infrared radiation that contributes to increased global warming and continuing climate change. Methane reacts in the atmosphere to form tropospheric ozone and stratospheric water vapor, both of which also contribute to global warming. When accounting for the impacts of changing methane, tropospheric ozone, and stratospheric water vapor concentrations, the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report (2013) found that historical emissions of methane accounted for about 30 percent of the total current warming influence (radiative forcing) due to historical emissions of greenhouse gases. Methane is therefore a major contributor to the climate change impacts described in section III.B of this preamble. The remainder of this section discusses the methane reductions expected from this proposed rule and the associated monetized benefits.

As discussed in section IV of this preamble, this rulemaking includes several changes to the NSPS for MSW landfills that will decrease methane emissions from this sector. Specifically, the final NSPS are expected to reduce methane emissions from all landfills annually by about 44,300 metric tons of methane.

We calculated the global social benefits of these methane emission reductions using estimates of the social cost of methane (SC-CH_4), a metric that estimates the monetary value of impacts associated with marginal changes in methane emissions in a given year. The SC-CH_4 estimates applied in this analysis were developed by Marten et al. (2014) and are discussed in greater detail below.

A similar metric, the social cost of CO_2 (SC-CO_2), provides important context for understanding the Marten et al. SC-CH_4 estimates.[51] The SC-CO_2 is a metric that estimates the monetary value of impacts associated with marginal changes in CO_2 emissions in a given year. It includes a wide range of anticipated climate impacts, such as net changes in agricultural productivity and human health, property damage from increased flood risk, and changes in energy system costs, such as reduced costs for heating and increased costs for air conditioning. Estimates of the SC-CO_2 have been used by the EPA and other federal agencies to value the impacts of CO_2 emissions changes in benefit cost analysis for GHG-related rulemakings since 2008.

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[51] Previous analyses have commonly referred to the social cost of carbon dioxide emissions as the social cost of carbon or SCC. To more easily facilitate the inclusion of non-CO_2 GHGs in the discussion and analysis the more specific SC-CO_2 nomenclature is used to refer to the social cost of CO_2 emissions.

The SC-CO_2 estimates were developed over many years, using the best science available, and with input from the public. Specifically, an interagency working group (IWG) that included the EPA and other executive branch agencies and offices used three integrated assessment models (IAMs) to develop the SC-CO_2 estimates and recommended four global values for use in regulatory analyses. The SC-CO_2 estimates were first released in February 2010 and updated in 2013 using new versions of each IAM.

The 2010 SC-CO_2 Technical Support Document (TSD) provides a complete discussion of the methods used to develop these estimates and the current SC-CO_2 TSD presents and discusses the 2013 update (including recent minor technical corrections to the estimates).[52]

The SC-CO_2 TSDs discuss a number of limitations to the SC-CO_2 analysis, including the incomplete way in which the IAMs capture catastrophic and non-catastrophic impacts, their incomplete treatment of adaptation and technological change, uncertainty in the extrapolation of damages to high temperatures, and assumptions regarding risk aversion. Currently, IAMs do not assign value to all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature due to a lack of precise information on the nature of damages and because the science incorporated into these models understandably lags behind the most recent research. Nonetheless, these estimates and the discussion of their limitations represent the best available information about the social benefits of CO_2 reductions to inform benefit-cost analysis. The EPA and other agencies continue to engage in research on modeling and valuation of climate impacts with the goal to improve these estimates, and continue to consider feedback on the SC-CO_2 estimates from stakeholders through a range of channels, including public comments received on Agency rulemakings, a separate Office of Management and Budget (OMB) public comment solicitation, and through regular interactions with stakeholders and research analysts implementing the SC-CO_2 methodology. See the docketed 2016 RIA for additional details.

A challenge particularly relevant to this rule is that the IWG did not estimate the social costs of non-CO_2 GHG emissions at the time the SC-CO_2 estimates were developed. In addition, the directly modeled estimates of the social costs of non-CO_2 GHG emissions previously found in the published literature were few in number and varied considerably in terms of the models and input assumptions they employed.[53] In the past, EPA has sought to understand the potential importance of monetizing non-CO_2 GHG emissions changes through sensitivity analysis using an estimate of the GWP of methane to convert emission impacts to CO_2 equivalents, which can then be valued using the SC-CO_2 estimates. This approach approximates the social cost of methane (SC-CH_4) using estimates of the SC-CO_2 and the GWP of methane.

The published literature documents a variety of reasons that directly modeled estimates of SC-CH_4 are an analytical improvement over the estimates from the GWP approximation approach. Specifically, several recent studies found that GWP-weighted benefit estimates for CH_4 are likely to be lower than the estimates derived using directly modeled social cost estimates for these gases.[54] The GWP reflects only the relative integrated radiative forcing of a gas over 100 years in comparison to CO_2. The directly modeled social cost estimates differ from the GWP-scaled SC-CO_2 because the relative differences in timing and magnitude of the warming between gases are explicitly modeled, the non-linear effects of temperature change on economic damages are included, and rather than treating all impacts over a hundred years equally, the modeled damages over the time horizon considered (300 years in this case) are discounted to present value terms. A detailed discussion of the limitations of the GWP approach can be found in the RIA.

In general, the commenters on previous rulemakings strongly encouraged the EPA to incorporate the monetized value of non-CO_2 GHG impacts into the benefit cost analysis. However, they noted the challenges associated with the GWP approach, as discussed above, and encouraged the use of directly modeled estimates of the SC-CH_4 to overcome those challenges.

Since then, a paper by Marten et al. (2014) has provided the first set of published SC-CH_4 estimates in the peer-reviewed literature that are consistent with the modeling assumptions underlying the SC-CO_2 estimates.[55] [56] Specifically, the estimation approach of Marten et al. used the same set of three IAMs, five socioeconomic-emissions scenarios, equilibrium climate sensitivity distribution, three constant discount rates, and aggregation approach used by the IWG to develop the SC-CO_2 estimates.

The SC-CH_4 estimates from Marten, et al. (2014) are presented in Table 3 of this preamble. More detailed discussion of the methodology, results, and a comparison to other published estimates can be found in the RIA and in Marten, et al.

TABLE 3—SOCIAL COST OF CH_4, 2012–2050 [a]

[In 2012$ per metric ton (Source: Marten et al., 2014 [b])]

Year	SC-CH_4			
	5% Average	3% Average	2.5% Average	3% 95th percentile
2012	$430	$1000	$1400	$2800

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[52] Both the 2010 SC-CO_2 TSD and the current TSD are available at: *https://www.whitehouse.gov/omb/oira/social-cost-of-carbon.*

[53] U.S. EPA. 2012. Regulatory Impact Analysis Final New Source Performance Standards and Amendments to the National Emissions Standards for Hazardous Air Pollutants for the Oil and Natural Gas Industry. Office of Air Quality Planning and Standards, Health and Environmental Impacts Division. April. *http://www.epa.gov/ttn/ecas/regdata/RIAs/oil_natural_gas_final_neshap_nsps_ria.pdf.* Accessed April 7, 2016.

[54] See Waldhoff et al (2011); Marten and Newbold (2012); and Marten et al. (2014).

[55] Marten et al. (2014) also provided the first set of SC-N_2O estimates that are consistent with the assumptions underlying the IWG SC-CO_2 estimates.

[56] Marten, A.L., E.A. Kopits, C.W. Griffiths, S.C. Newbold & A. Wolverton (2014). Incremental CH_4 and N_2O mitigation benefits consistent with the U.S. Government's SC-CO_2 estimates, Climate Policy, DOI: 10.1080/14693062.2014.912981.

TABLE 3—SOCIAL COST OF CH_4, 2012–2050 [a]—Continued

[In 2012$ per metric ton (Source: Marten et al., 2014 [b])]

Year	SC-CH_4			
	5% Average	3% Average	2.5% Average	3% 95th percentile
2015	490	1100	1500	3000
2020	580	1300	1700	3500
2025	700	1500	1900	4000
2030	820	1700	2200	4500
2035	970	1900	2500	5300
2040	1100	2200	2800	5900
2045	1300	2500	3000	6600
2050	1400	2700	3300	7200

[a] The values are emissions-year specific. Estimates using several discount rates are included because the literature shows that estimates of the SC-CO_2 (and SC-CH_4) are sensitive to assumptions about the discount rate, and because no consensus exists on the appropriate rate to use in an intergenerational context (where costs and benefits are incurred by different generations). The fourth value is the 95th percentile of the SC-CH_4 estimates across three models using a 3 percent discount rate. It is included to represent higher-than-expected impacts from temperature change further out in the tails of the SC-CH_4 distribution.

[b] The estimates in this table have been adjusted to reflect recent minor technical corrections to the SC-CO_2 estimates. See the Corrigendum to Marten et al. (2014), *http://www.tandfonline.com/doi/abs/10.1080/14693062.2015.1070550.*

The application of these directly modeled SC-CH_4 estimates from Marten et al. (2014) in a benefit-cost analysis of a regulatory action is analogous to the use of the SC-CO_2 estimates. In addition, the limitations for the SC-CO_2 estimates discussed above likewise apply to the SC-CH_4 estimates, given the consistency in the methodology.

In early 2015, the EPA conducted a peer review of the application of the Marten, et al. (2014) non-CO_2 social cost estimates in regulatory analysis and received responses that supported this application. See the 2016 RIA for a detailed discussion.

The EPA also carefully considered the full range of public comments and associated technical issues on the Marten et al. SC-CH_4 estimates received through this rulemaking. The comments addressed the technical details of the SC-CO_2 estimates and the Marten et al. SC-CH_4 estimates as well as their application to this rulemaking analysis. One comment letter also provided constructive recommendations to improve the SC-CO_2 and SC-CH_4 estimates in the future. Based on the evaluation of the public comments on this rulemaking, the favorable peer review of the Marten et al. application, and past comments urging the EPA to value non-CO_2 GHG impacts in its rulemakings, the agency has concluded that the estimates represent the best scientific information on the impacts of climate change available in a form appropriate for incorporating the damages from incremental CH_4 emissions changes into regulatory analysis. The EPA has included those benefits in the main benefits analysis. See the Response to Comments document for the complete response to comments received on the SC-CH_4 as part of this rulemaking.

The CH_4 benefits based on Marten et al. (2014) are presented for the year 2025. Applying this approach to the methane reductions estimated for these NSPS, the 2025 methane benefits vary by discount rate and range from about $31 million to approximately $180 million; the mean SC-CH_4 at the 3-percent discount rate results in an estimate of about $67 million in 2025, as presented in Table 4 of this preamble.

TABLE 4—ESTIMATED GLOBAL BENEFITS OF CH_4 REDUCTIONS IN 2025

[In millions, 2012$]

Million metric tons CH_4	Discount rate and statistic			
	5% Average	3% Average	2.5% Average	3% 95th percentile
0.044	$31	$67	$86	$180

The vast majority of this action's climate-related benefits are associated with methane reductions. Additional climate-related benefits are expected from the NSPS secondary air impacts, specifically, a net reduction in CO_2 emissions. Monetizing the net CO_2 reductions with the SC-CO_2 estimates described in this section yields benefits of $1.3 million in the year 2025 (average SC-CO_2, 3 percent discount rate, 2012$). See the 2016 RIA for more details. The climate-related benefits associated with methane reductions plus the benefits from the secondary air impact CO_2 reductions amount to about $68 million in 2025 (average SC-CH_4 and average SC-CO_2, each at a 3 percent discount rate, 2012$).

In addition to the limitation discussed above, and the referenced documents, there are additional impacts of individual GHGs that are not currently captured in the IAMs used in the directly modeled approach of Marten et al. (2014), and therefore are not quantified for the rule. For example, the NMOC portion of LFG can contain a variety of air pollutants, including VOC and various organic HAP. VOC emissions are precursors to both $PM_{2.5}$ and ozone formation, while methane is a GHG and a precursor to global ozone formation. These pollutants are associated with substantial health effects, welfare effects, and climate effects, which are discussed in section III.B of this preamble. The ozone generated by methane has important non-climate impacts on agriculture, ecosystems, and human health. The RIA describes the specific impacts of methane as an ozone precursor in more detail and discusses studies that have estimated monetized benefits of these methane generated ozone effects. The EPA continues to monitor developments in this area of research.

Finally, these final NSPS will yield benefits from reductions in VOC and HAP emissions and from reductions in methane as a precursor to global background concentrations of tropospheric ozone.

Based on the monetized benefits and costs, the annual net benefits of the rule are estimated to be approximately $62 million ($2012) in 2025, based on the average SC-CH_4 at a 3 percent discount rate, average SC-CO_2 at a 3 percent discount rate, and costs at a 7 percent discount rate.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is an economically significant regulatory action that was submitted to OMB for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is documented in the 2016 RIA, which is available in docket EPA–HQ–OAR–2003–0215 and is briefly summarized in section VII of this preamble.

B. Paperwork Reduction Act (PRA)

The Office of Management and Budget (OMB) has approved the information collection activities contained in this rule under the PRA and has assigned OMB control number 2060–0697. The Information Collection Request (ICR) document that the EPA prepared for the final NSPS has been assigned EPA ICR number 2498.03. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information required to be collected is necessary to identify the regulated entities subject to the final rule and to ensure their compliance with the final NSPS. The recordkeeping and reporting requirements are mandatory and are being established under authority of CAA section 114 (42 U.S.C. 7414). All information other than emissions data submitted as part of a report to the agency for which a claim of confidentiality is made will be safeguarded according to CAA section 111(c) and the EPA's implementing regulations at 40 CFR part 2, subpart B.

Respondents/affected entities: MSW landfills that commence construction, reconstruction, or modification after July 17, 2014.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart XXX).

Estimated number of respondents: 133 MSW landfills (per year) that commence construction, reconstruction, or modification after July 17, 2014.

Frequency of response: Initially, occasionally, and annually.

Total estimated burden: 91,087 hours (per year) for the responding facilities and 2,634 hours (per year) for the agency. These are estimates for the average annual burden for the first 3 years after the rule is final. Burden is defined at 5 CCFR 1320.3(b).

Total estimated cost: $6,130,652 (per year), which includes annualized capital or operation and maintenance costs, for the responding facilities and $169,978 (per year) for the agency. These are estimates for the average annual cost for the first 3 years after the rule is final.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this final rule may include private small businesses and small governmental jurisdictions that own or operate landfills. Although it is unknown how many new landfills will be owned or operated by small entities, recent trends in the waste industry have been towards consolidated ownership among larger companies. The EPA has determined that approximately 10 percent of existing landfills subject to similar regulations (40 CFR part 60, subparts WWW and Cc or the corresponding state or federal plan) are small entities. It was determined that the July 2014 proposed NSPS and August 2015 supplemental to the proposed NSPS subpart would not have a significant economic impact on a substantial number of small entities. Given the changes in the number of landfills anticipated to become subject to the new NSPS, the potential impact on small entities has been reanalyzed. The EPA has determined that, with a size threshold of 2.5 million Mg and 2.5 million m^3 and an NMOC emission rate of 34 Mg/yr, no small entities are expected to experience an impact of greater than 1 percent of revenues in 2025. Details of the analysis are presented in the 2016 RIA, located in Docket ID No. EPA–HQ–OAR–2003–0215.

Although not required by the RFA to convene a Small Business Advocacy Review Panel because the EPA has now determined that the final NSPS would not have a significant economic impact on a substantial number of small entities, the EPA originally convened a panel to obtain advice and recommendations from small entity representatives potentially subject to this rule's requirements. A copy of the "Summary of Small Entity Outreach" is included in Docket ID No. EPA–HQ–OAR–2003–0215.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538. This final NSPS applies to landfills that commence construction, reconstruction, or modification after July 17, 2014. Impacts resulting from the final NSPS are far below the applicable threshold. Thus, the final NSPS is not subject to the requirements of sections 202 or 205 of the UMRA. However, in developing the final NSPS, the EPA consulted with small governments pursuant to a plan established under section 203 of the UMRA to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments. The EPA held meetings as discussed in section VIII.E of this preamble under Federalism consultations.

E. Executive Order 13132: Federalism

The EPA has concluded that the final NSPS does not have Federalism implications. The final NSPS does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The final rule does not have impacts of $25 million or more in any one year. Thus, Executive Order 13132 does not apply to the final NSPS.

Although section 6 of Executive Order 13132 does not apply to the final NSPS, the EPA consulted with state and local officials and representatives of state and local governments early in the process of developing the final rules for MSW landfills (both the NSPS and Emission Guidelines) to permit them to have meaningful and timely input into its development.

The EPA conducted a Federalism Consultation Outreach Meeting on September 10, 2013. Due to interest in that meeting, additional outreach meetings were held on November 7, 2013, and November 14, 2014. An additional Federalism outreach meeting was conducted on April 15, 2015. Participants included the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, the County Executives of America, the Environmental Council of States, the National Association of Clean Air Agencies, Association of State and Territorial Solid Waste Management Officials, environmental agency representatives from 43 states, and approximately 60 representatives from city and county governments. Concerns raised during the consultations include: implementation concerns associated with shortening of gas collection system installation and/or expansion timeframes, concerns regarding significant lowering of the design capacity or emission thresholds, the need for clarifications associated with wellhead operating parameters, and the need for consistent, clear, and rigorous surface monitoring requirements. The EPA has addressed many of these concerns in the final rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Based on methodology used to predict future landfills as outlined in the docketed memorandum "Summary of Updated Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations, 2016," future tribal landfills are not anticipated to be large enough to become subject to the rulemaking. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is a significant regulatory action as defined by Executive Order 12866, and the EPA believes that the environmental health or safety risk addressed by this action has a disproportionate effect on children. Accordingly, the EPA has evaluated the environmental health and welfare effects of climate change on children.

Greenhouse gases including methane contribute to climate change and are emitted in significant quantities by the landfill sector. The EPA believes that the GHG emission reductions resulting from implementation of this final rule will further improve children's health.

The assessment literature cited in the EPA's 2009 Endangerment Finding concluded that certain populations and life stages, including children, the elderly, and the poor, are most vulnerable to climate-related health effects. The assessment literature since 2009 strengthens these conclusions by providing more detailed findings regarding these groups' vulnerabilities and the projected impacts they may experience.

These assessments describe how children's unique physiological and developmental factors contribute to making them particularly vulnerable to climate change. Impacts to children are expected from heat waves, air pollution, infectious and waterborne illnesses, and mental health effects resulting from extreme weather events. In addition, children are among those especially susceptible to most allergic diseases, as well as health effects associated with heat waves, storms, and floods. Additional health concerns may arise in low income households, especially those with children, if climate change reduces food availability and increases prices, leading to food insecurity within households.

More detailed information on the impacts of climate change to human health and welfare is provided in section III.B of this preamble.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects because there are a small number of new or modified landfills expected to be subject to control requirements under 40 CFR part 60, subpart XXX in 2025. Further, the energy demanded to operate these control systems will be offset by additional energy supply from LFG energy projects.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

The final NSPS involves technical standards. For the final NSPS, the EPA has decided to use EPA Methods 2, 2E, 3, 3A, 3C, 18, 21, 25, 25A, and 25C of 40 CFR part 60, appendix A.

The EPA identified 15 voluntary consensus standards (VCS) as being potentially applicable (ASTM D3154–00 (2006), ASTM D3464–96 (2007), ASTM D3796–90 (2001), ANSI/ASME PTC 19–10–1981 Part 10, ASME B133.9–1994 (2001), ISO 10396:1993 (2007), ISO 12039:2001, ISO 10780:1994, ASTM D5835–95 (2013), ASTM D6522–11, ASTM D6420–99 (2010), CAN/CSA Z223.2–M86 (1999), ASTM D6060–96 (2009), ISO 14965:2000(E), EN 12619 (1999)). The EPA determined that 14 of the 15 candidate VCS identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data, and other important technical and policy considerations. The agency identified no equivalent standards for Methods 2E, 21, and 25C. However, one voluntary consensus standard was identified as an acceptable alternative to EPA test method for the purposes of this rule.

The voluntary consensus standard ASTM D6522–11, "Standard Test Method for the Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers" is an acceptable alternative to Method 3A when used at the wellhead before combustion. It is advisable to know the flammability and check the Lower Explosive Limit of the flue gas constituents, prior to sampling, in order to avoid undesired ignition of the gas.

The EPA's review, including review of comments for these 15 methods, is documented in the memorandum, "Voluntary Consensus Standard Results for Standards of Performance for Municipal Solid Waste Landfills, 2016" in the docket for this rulemaking (EPA–HQ–OAR–2003–0215).

In this rule, the EPA is finalizing regulatory text for 40 CFR part 60, subpart XXX that includes incorporation by reference in accordance with requirements of 1 CFR 51.5. Specifically, the EPA is incorporating by reference ASTM D6522–11. You may obtain a copy from

American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959 or *http://www.astm.org.*

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. The EPA has determined this because the rulemaking increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low-income, or indigenous populations. To the extent that any minority, low-income, or indigenous subpopulation is disproportionately impacted by hazardous air emissions due to the proximity of their homes to sources of these emissions, that subpopulation also stands to see increased environmental and health benefit from the emission reductions called for by this rule.

The EPA has provided meaningful participation opportunities for minority, low-income, indigenous populations and tribes during the rulemaking process by conducting and participating in community calls and webinars. Documentation of these activities can be found in the document titled, "2016 Environmental Justice Screening Report for Municipal Solid Waste Landfills," a copy of which is available in the docket for this action (EPA–HQ–OAR–2003–0215).

K. Congressional Review Act (CRA)

This rule is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: July 14, 2016.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends title 40, chapter I of the Code of Federal Regulations as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Amend § 60.17(h)(185) by removing the period at the end of the paragraph and adding in its place ", 60.766(a)."

■ 3. Add subpart XXX to read as follows:

Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014

Sec.

60.760 Applicability, designation of affected source, and delegation of authority.
60.761 Definitions.
60.762 Standards for air emissions from municipal solid waste landfills.
60.763 Operational standards for collection and control systems.
60.764 Test methods and procedures.
60.765 Compliance provisions.
60.766 Monitoring of operations.
60.767 Reporting requirements.
60.768 Recordkeeping requirements.
60.769 Specifications for active collection systems.

Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014

§ 60.760 Applicability, designation of affected source, and delegation of authority.

(a) The provisions of this subpart apply to each municipal solid waste landfill that commenced construction, reconstruction, or modification after July 17, 2014. Physical or operational changes made to an MSW landfill solely to comply with subparts Cc, Cf, or WWW of this part are not considered construction, reconstruction, or modification for the purposes of this section.

(b) The following authorities are retained by the Administrator and are not transferred to the state: § 60.764(a)(5).

(c) Activities required by or conducted pursuant to a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA), or state remedial action are not considered construction, reconstruction, or modification for purposes of this subpart.

§ 60.761 Definitions.

As used in this subpart, all terms not defined herein have the meaning given them in the Act or in subpart A of this part.

Active collection system means a gas collection system that uses gas mover equipment.

Active landfill means a landfill in which solid waste is being placed or a landfill that is planned to accept waste in the future.

Closed area means a separately lined area of an MSW landfill in which solid waste is no longer being placed. If additional solid waste is placed in that area of the landfill, that landfill area is no longer closed. The area must be separately lined to ensure that the landfill gas does not migrate between open and closed areas.

Closed landfill means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under § 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

Closure means that point in time when a landfill becomes a closed landfill.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

Controlled landfill means any landfill at which collection and control systems are required under this subpart as a result of the nonmethane organic compounds emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with § 60.762(b)(2)(i).

Corrective action analysis means a description of all reasonable interim and long-term measures, if any, that are available, and an explanation of why the selected corrective action(s) is/are the best alternative(s), including, but not limited to, considerations of cost effectiveness, technical feasibility, safety, and secondary impacts.

Design capacity means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the state, local, or tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually.

Disposal facility means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

Emission rate cutoff means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

Enclosed combustor means an enclosed firebox which maintains a relatively constant limited peak temperature generally using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

Flare means an open combustor without enclosure or shroud.

Gas mover equipment means the equipment (*i.e.,* fan, blower, compressor) used to transport landfill gas through the header system.

Gust means the highest instantaneous wind speed that occurs over a 3-second running average.

Household waste means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). Household waste does not include fully segregated yard waste. Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities. Household waste does not include construction, renovation, or demolition wastes, even if originating from a household.

Industrial solid waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act, parts 264 and 265 of this chapter. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

Interior well means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside the landfilled waste is not an interior well.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under § 257.2 of this title.

Lateral expansion means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

Leachate recirculation means the practice of taking the leachate collected from the landfill and reapplying it to the landfill by any of one of a variety of methods, including pre-wetting of the waste, direct discharge into the working face, spraying, infiltration ponds, vertical injection wells, horizontal gravity distribution systems, and pressure distribution systems.

Modification means an increase in the permitted volume design capacity of the landfill by either lateral or vertical expansion based on its permitted design capacity as of July 17, 2014. Modification does not occur until the owner or operator commences construction on the lateral or vertical expansion.

Municipal solid waste landfill or *MSW landfill* means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes (§ 257.2 of this title) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

Municipal solid waste landfill emissions or *MSW landfill emissions* means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

NMOC means nonmethane organic compounds, as measured according to the provisions of § 60.764.

Nondegradable waste means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

Passive collection system means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

Root cause analysis means an assessment conducted through a process of investigation to determine the primary cause, and any other contributing causes, of positive pressure at a wellhead.

Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities.

Sludge means the term sludge as defined in 40 CFR 258.2.

Solid waste means the term solid waste as defined in 40 CFR 258.2.

Sufficient density means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this part.

Sufficient extraction rate means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

Treated landfill gas means landfill gas processed in a treatment system as defined in this subpart.

Treatment system means a system that filters, de-waters, and compresses landfill gas for sale or beneficial use.

Untreated landfill gas means any landfill gas that is not treated landfill gas.

§ 60.762 Standards for air emissions from municipal solid waste landfills.

(a) Each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume must submit an initial design capacity report to the Administrator as provided in § 60.767(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions must be documented and submitted with the report. Submittal of the initial design capacity report fulfills the requirements of this subpart except as provided for in paragraphs (a)(1) and (2) of this section.

(1) The owner or operator must submit to the Administrator an amended design capacity report, as provided for in § 60.767(a)(3).

(2) When an increase in the maximum design capacity of a landfill exempted from the provisions of § 60.762(b) through § 60.769 on the basis of the design capacity exemption in paragraph (a) of this section results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator must comply with the provisions of paragraph (b) of this section.

(b) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, must either comply with paragraph (b)(2) of this section or calculate an NMOC emission rate for the landfill using the procedures specified in § 60.764. The NMOC emission rate must be recalculated annually, except as provided in § 60.767(b)(1)(ii). The owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters is subject to part 70 or 71 permitting requirements.

(1) If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator must:

(i) Submit an annual NMOC emission rate emission report to the Administrator, except as provided for in § 60.767(b)(1)(ii); and

(ii) Recalculate the NMOC emission rate annually using the procedures specified in § 60.764(a)(1) until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed.

(A) If the calculated NMOC emission rate, upon initial calculation or annual recalculation required in paragraph (b) of this section, is equal to or greater than 34 megagrams per year, the owner or operator must either: Comply with paragraph (b)(2) of this section; calculate NMOC emissions using the next higher tier in § 60.764; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.764(a)(6).

(B) If the landfill is permanently closed, a closure report must be submitted to the Administrator as provided for in § 60.767(e).

(2) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator must either:

(i) Calculated *NMOC Emission Rate.* Submit a collection and control system design plan prepared by a professional engineer to the Administrator within 1 year as specified in § 60.767(c); calculate NMOC emissions using the next higher tier in § 60.764; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.764(a)(6). The collection and control system must meet the requirements in paragraphs (b)(2)(ii) and (iii) of this section.

(ii) *Collection system.* Install and start up a collection and control system that captures the gas generated within the landfill as required by paragraphs (b)(2)(ii)(C) or (D) and (b)(2)(iii) of this section within 30 months after:

(A) The first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in § 60.767(c)(4); or

(B) The most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in § 60.767(c)(4)(iii).

(C) An active collection system must:

(*1*) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control system equipment;

(*2*) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of 5 years or more if active; or 2 years or more if closed or at final grade.

(*3*) Collect gas at a sufficient extraction rate;

(*4*) Be designed to minimize off-site migration of subsurface gas.

(D) A passive collection system must:

(*1*) Comply with the provisions specified in paragraphs (b)(2)(ii)(C)(*1*), (*2*), and (*3*) of this section.

(*2*) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners must be installed as required under 40 CFR 258.40.

(iii) *Control system.* Route all the collected gas to a control system that complies with the requirements in either paragraph (b)(2)(iii)(A), (B), or (C) of this section.

(A) A non-enclosed flare designed and operated in accordance with the parameters established in § 60.18 except as noted in § 60.764(e); or

(B) A control system designed and operated to reduce NMOC by 98 weight-percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at 3 percent oxygen. The reduction efficiency or parts per million by volume must be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in § 60.764(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this subpart.

(*1*) If a boiler or process heater is used as the control device, the landfill gas stream must be introduced into the flame zone.

(*2*) The control device must be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in § 60.766;

(C) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not allowed. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, then the treated landfill gas must be controlled according to either paragraph (b)(2)(iii)(A) or (B) of this section.

(D) All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of paragraph (b)(2)(iii)(A) or (B) of this section. For purposes of this subpart, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of paragraph (b)(2)(iii)(A) or (B) of this section.

(iv) *Operation.* Operate the collection and control device installed to comply with this subpart in accordance with the provisions of §§ 60.763, 60.765 and 60.766.

(v) *Removal criteria.* The collection and control system may be capped, removed, or decommissioned if the following criteria are met:

(A) The landfill is a closed landfill (as defined in § 60.761). A closure report must be submitted to the Administrator as provided in § 60.767(e).

(B) The collection and control system has been in operation a minimum of 15 years or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow.

(C) Following the procedures specified in § 60.764(b), the calculated NMOC emission rate at the landfill is less than 34 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart.

(c) For purposes of obtaining an operating permit under title V of the Clean Air Act, the owner or operator of an MSW landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under part 70 or 71 of this chapter, unless the landfill is otherwise subject to either part 70 or 71. For purposes of submitting a timely application for an operating permit under part 70 or 71, the owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to either part 70 or 71, becomes subject to the requirements of § 70.5(a)(1)(i) or § 71.5(a)(1)(i) of this chapter, regardless of when the design capacity report is actually submitted, no later than:

(1) November 28, 2016 for MSW landfills that commenced construction, modification, or reconstruction after July 17, 2014 but before August 29, 2016;

(2) Ninety days after the date of commenced construction, modification, or reconstruction for MSW landfills that commence construction, modification, or reconstruction after August 29, 2016.

(d) When an MSW landfill subject to this subpart is closed as defined in this subpart, the owner or operator is no longer subject to the requirement to maintain an operating permit under part 70 or 71 of this chapter for the landfill if the landfill is not otherwise subject to the requirements of either part 70 or 71 and if either of the following conditions are met:

(1) The landfill was never subject to the requirement for a control system under paragraph (b)(2) of this section; or

(2) The owner or operator meets the conditions for control system removal specified in paragraph (b)(2)(v) of this section.

§ 60.763 Operational standards for collection and control systems.

Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.762(b)(2) must:

(a) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:

(1) 5 years or more if active; or

(2) 2 years or more if closed or at final grade;

(b) Operate the collection system with negative pressure at each wellhead except under the following conditions:

(1) A fire or increased well temperature. The owner or operator must record instances when positive pressure occurs in efforts to avoid a fire. These records must be submitted with the annual reports as provided in § 60.767(g)(1);

(2) Use of a geomembrane or synthetic cover. The owner or operator must develop acceptable pressure limits in the design plan;

(3) A decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes must be approved by the Administrator as specified in § 60.767(c);

(c) Operate each interior wellhead in the collection system with a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator may establish a higher operating temperature value at a particular well. A higher operating value demonstration must be submitted to the Administrator for approval and must include supporting data demonstrating that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens. The demonstration must satisfy both criteria in order to be approved (*i.e.,* neither causing fires nor killing methanogens is acceptable).

(d) Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator must conduct surface testing using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 60.765(d). The owner or operator must conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. Thus, the owner or operator must monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan must be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing.

(e) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with § 60.762(b)(2)(iii). In the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere must be closed within 1 hour of the collection or control system not operating; and

(f) Operate the control system at all times when the collected gas is routed to the system.

(g) If monitoring demonstrates that the operational requirements in paragraphs (b), (c), or (d) of this section are not met, corrective action must be taken as specified in § 60.765(a)(3) and (5) or (c). If corrective actions are taken as specified in § 60.765, the monitored exceedance is not a violation of the operational requirements in this section.

§ 60.764 Test methods and procedures.

(a)(1) *NMOC Emission Rate.* The landfill owner or operator must calculate the NMOC emission rate using either Equation 1 provided in paragraph (a)(1)(i) of this section or Equation 2 provided in paragraph (a)(1)(ii) of this section. Both Equation 1 and Equation 2 may be used if the actual year-to-year solid waste acceptance rate is known, as specified in paragraph (a)(1)(i) of this section, for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, as specified in paragraph (a)(1)(ii) of this section, for part of the life of the landfill. The values to be used in both Equation 1 and Equation 2 are 0.05 per year for k, 170 cubic meters per megagram for L_o, and 4,000 parts per million by volume as hexane for the C_{NMOC}. For landfills located in geographical areas with a 30-year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorologic site, the k value to be used is 0.02 per year.

(i)(A) Equation 1 must be used if the actual year-to-year solid waste acceptance rate is known.

$$M_{NMOC} = \sum_{i=1}^{n} 2\,k\,L_o M_i \left(e^{-kt_i}\right)\left(C_{NMOC}\right)\left(3.6\times10^{-9}\right) \qquad \text{(Eq. 1)}$$

Where:

M_{NMOC} = Total NMOC emission rate from the landfill, megagrams per year.
k = Methane generation rate constant, $year^{-1}$.
L_o = Methane generation potential, cubic meters per megagram solid waste.
M_i = Mass of solid waste in the i^{th} section, megagrams.
t_i = Age of the i^{th} section, years.
C_{NMOC} = Concentration of NMOC, parts per million by volume as hexane.
3.6×10^{-9} = Conversion factor.

(B) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for M_i if documentation of the nature and amount of such wastes is maintained.

(ii)(A) Equation 2 must be used if the actual year-to-year solid waste acceptance rate is unknown.

$$M_{NMOC} = 2L_oR\left(e^{-kc}-e^{-kt}\right)C_{NMOC}\left(3.6\times10^{-9}\right) \qquad \text{(Eq.2)}$$

Where:

M_{NMOC} = Mass emission rate of NMOC, megagrams per year.
L_o = Methane generation potential, cubic meters per megagram solid waste.
R = Average annual acceptance rate, megagrams per year.
k = Methane generation rate constant, $year^{-1}$.
t = Age of landfill, years.
C_{NMOC} = Concentration of NMOC, parts per million by volume as hexane.
c = Time since closure, years; for active landfill c = 0 and $e^{-kc} = 1$.
3.6×10^{-9} = Conversion factor.

(B) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value of R, if documentation of the nature and amount of such wastes is maintained.

(2) *Tier 1.* The owner or operator must compare the calculated NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC emission rate calculated in paragraph (a)(1) of this section is less than 34 megagrams per year, then the landfill owner or operator must submit an NMOC emission rate report according to § 60.767(b), and must recalculate the NMOC mass emission rate annually as required under § 60.762(b).

(ii) If the calculated NMOC emission rate as calculated in paragraph (a)(1) of this section is equal to or greater than 34 megagrams per year, then the landfill owner must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 60.767(c) and install and operate a gas collection and control system within 30 months according to § 60.762(b)(2)(ii) and (iii);

(B) Determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the Tier 2 procedures provided in paragraph (a)(3) of this section; or

(C) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the Tier 3 procedures provided in paragraph (a)(4) of this section.

(3) *Tier 2.* The landfill owner or operator must determine the site-specific NMOC concentration using the following sampling procedure. The landfill owner or operator must install at least two sample probes per hectare, evenly distributed over the landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The probes should be evenly distributed across the sample area. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator must collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Method 25 or 25C of appendix A of this part. Taking composite samples from different probes into a single cylinder is allowed; however, equal sample volumes must be taken from each probe. For each composite, the sampling rate, collection times, beginning and ending cylinder vacuums, or alternative volume measurements must be recorded to verify that composite volumes are equal. Composite sample volumes should not be less than one liter unless evidence can be provided to substantiate the accuracy of smaller volumes. Terminate compositing before the cylinder approaches ambient pressure where measurement accuracy diminishes. If more than the required number of samples are taken, all samples must be used in the analysis. The landfill owner or operator must divide the NMOC concentration from Method 25 or 25C of appendix A of this part by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane. If the landfill has an active or passive gas removal system in place, Method 25 or 25C samples may be collected from these systems instead of surface probes provided the removal system can be shown to provide sampling as representative as the two sampling probe per hectare requirement. For active collection systems, samples may be collected from the common header pipe. The sample location on the common header pipe must be before any gas moving, condensate removal, or treatment system equipment. For active collection systems, a minimum of three samples must be collected from the header pipe.

(i) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results according to § 60.767(i)(1).

(ii) The landfill owner or operator must recalculate the NMOC mass emission rate using Equation 1 or Equation 2 provided in paragraph (a)(1)(i) or (a)(1)(ii) of this section and using the average site-specific NMOC concentration from the collected samples instead of the default value provided in paragraph (a)(1) of this section.

(iii) If the resulting NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator must submit a periodic estimate of NMOC emissions in an NMOC emission rate report according to § 60.767(b)(1), and must recalculate the NMOC mass emission rate annually as required under § 60.762(b). The site-specific

NMOC concentration must be retested every 5 years using the methods specified in this section.

(iv) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration is equal to or greater than 34 megagrams per year, the landfill owner or operator must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 60.767(c) and install and operate a gas collection and control system within 30 months according to § 60.762(b)(2)(ii) and (iii);

(B) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the site-specific methane generation rate using the Tier 3 procedures specified in paragraph (a)(4) of this section; or

(C) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(4) *Tier 3.* The site-specific methane generation rate constant must be determined using the procedures provided in Method 2E of appendix A of this part. The landfill owner or operator must estimate the NMOC mass emission rate using Equation 1 or Equation 2 in paragraph (a)(1)(i) or (ii) of this section and using a site-specific methane generation rate constant, and the site-specific NMOC concentration as determined in paragraph (a)(3) of this section instead of the default values provided in paragraph (a)(1) of this section. The landfill owner or operator must compare the resulting NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration and Tier 3 site-specific methane generation rate is equal to or greater than 34 megagrams per year, the owner or operator must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 60.767(c) and install and operate a gas collection and control system within 30 months according to § 60.762(b)(2)(ii) and (iii); or

(B) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(ii) If the NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator must recalculate the NMOC mass emission rate annually using Equation 1 or Equation 2 in paragraph (a)(1) of this section and using the site-specific Tier 2 NMOC concentration and Tier 3 methane generation rate constant and submit a periodic NMOC emission rate report as provided in § 60.767(b)(1). The calculation of the methane generation rate constant is performed only once, and the value obtained from this test must be used in all subsequent annual NMOC emission rate calculations.

(5) *Other methods.* The owner or operator may use other methods to determine the NMOC concentration or a site-specific methane generation rate constant as an alternative to the methods required in paragraphs (a)(3) and (4) of this section if the method has been approved by the Administrator.

(6) *Tier 4.* The landfill owner or operator must demonstrate that surface methane emissions are below 500 parts per million. Surface emission monitoring must be conducted on a quarterly basis using the following procedures. Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr but less than 50 Mg/yr using Tier 1 or Tier 2. If both Tier 1 and Tier 2 indicate NMOC emissions are 50 Mg/yr or greater, then Tier 4 cannot be used. In addition, the landfill must meet the criteria in paragraph (a)(6)(viii) of this section.

(i) The owner or operator must measure surface concentrations of methane along the entire perimeter of the landfill and along a pattern that traverses the landfill at no more than 30-meter intervals using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 60.765(d).

(ii) The background concentration must be determined by moving the probe inlet upwind and downwind at least 30 meters from the waste mass boundary of the landfill.

(iii) Surface emission monitoring must be performed in accordance with section 8.3.1 of Method 21 of appendix A of this part, except that the probe inlet must be placed no more than 5 centimeters above the landfill surface; the constant measurement of distance above the surface should be based on a mechanical device such as with a wheel on a pole, except as described in paragraph (a)(6)(iii)(A) of this section.

(A) The owner or operator must use a wind barrier, similar to a funnel, when onsite average wind speed exceeds 4 miles per hour or 2 meters per second or gust exceeding 10 miles per hour. Average on-site wind speed must also be determined in an open area at 5-minute intervals using an on-site anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The wind barrier must surround the SEM monitor, and must be placed on the ground, to ensure wind turbulence is blocked. SEM cannot be conducted if average wind speed exceeds 25 miles per hour.

(B) Landfill surface areas where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover, and all cover penetrations must also be monitored using a device meeting the specifications provided in § 60.765(d).

(iv) Each owner or operator seeking to comply with the Tier 4 provisions in paragraph (a)(6) of this section must maintain records of surface emission monitoring as provided in § 60.768(g) and submit a Tier 4 surface emissions report as provided in § 60.767(c)(4)(iii).

(v) If there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must submit a gas collection and control system design plan within 1 year of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill according to § 60.767(c) and install and operate a gas collection and control system according to § 60.762(b)(2)(ii) and (iii) within 30 months of the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2.

(vi) If after four consecutive quarterly monitoring periods at a landfill, other than a closed landfill, there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must continue quarterly surface emission monitoring using the methods specified in this section.

(vii) If after four consecutive quarterly monitoring periods at a closed landfill there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must conduct annual surface emission monitoring using the methods specified in this section.

(viii) If a landfill has installed and operates a collection and control system that is not required by this subpart, then the collection and control system must meet the following criteria:

(A) The gas collection and control system must have operated for 6,570 out of 8,760 hours preceding the Tier 4 surface emissions monitoring demonstration.

(B) During the Tier 4 surface emissions monitoring demonstration, the gas collection and control system must operate as it normally would to collect and control as much landfill gas as possible.

(b) After the installation and startup of a collection and control system in compliance with this subpart, the owner or operator must calculate the NMOC emission rate for purposes of determining when the system can be capped, removed or decommissioned as provided in § 60.762(b)(2)(v), using Equation 3:

$$M_{NMOC} = 1.89 \times 10^{-3} Q_{LFG} C_{NMOC} \qquad \text{(Eq. 3)}$$

Where:

M_{NMOC} = Mass emission rate of NMOC, megagrams per year.

Q_{LFG} = Flow rate of landfill gas, cubic meters per minute.

C_{NMOC} = NMOC concentration, parts per million by volume as hexane.

(1) The flow rate of landfill gas, Q_{LFG}, must be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control system using a gas flow measuring device calibrated according to the provisions of section 10 of Method 2E of appendix A of this part.

(2) The average NMOC concentration, C_{NMOC}, must be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in Method 25 or Method 25C. The sample location on the common header pipe must be before any condensate removal or other gas refining units. The landfill owner or operator must divide the NMOC concentration from Method 25 or Method 25C of appendix A of this part by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane.

(3) The owner or operator may use another method to determine landfill gas flow rate and NMOC concentration if the method has been approved by the Administrator.

(i) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of the performance test, including any associated fuel analyses, according to § 60.767(i)(1).

(ii) [Reserved]

(c) When calculating emissions for Prevention of Significant Deterioration purposes, the owner or operator of each MSW landfill subject to the provisions of this subpart must estimate the NMOC emission rate for comparison to the Prevention of Significant Deterioration major source and significance levels in §§ 51.166 or 52.21 of this chapter using Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources (AP–42) or other approved measurement procedures.

(d) For the performance test required in § 60.762(b)(2)(iii)(B), Method 25 or 25C (Method 25C may be used at the inlet only) of appendix A of this part must be used to determine compliance with the 98 weight-percent efficiency or the 20 parts per million by volume outlet concentration level, unless another method to demonstrate compliance has been approved by the Administrator as provided by § 60.767(c)(2). Method 3, 3A, or 3C must be used to determine oxygen for correcting the NMOC concentration as hexane to 3 percent. In cases where the outlet concentration is less than 50 ppm NMOC as carbon (8 ppm NMOC as hexane), Method 25A should be used in place of Method 25. Method 18 may be used in conjunction with Method 25A on a limited basis (compound specific, *e.g.*, methane) or Method 3C may be used to determine methane. The methane as carbon should be subtracted from the Method 25A total hydrocarbon value as carbon to give NMOC concentration as carbon. The landowner or operator must divide the NMOC concentration as carbon by 6 to convert from the CNMOC as carbon to CNMOC as hexane. Equation 4 must be used to calculate efficiency:

$$\text{Control Efficiency} = (NMOC_{in} - NMOC_{out}) / (NMOC_{in}) \qquad \text{(Eq. 4)}$$

Where:

$NMOC_{in}$ = Mass of NMOC entering control device.

$NMOC_{out}$ = Mass of NMOC exiting control device.

(e) For the performance test required in § 60.762(b)(2)(iii)(A), the net heating value of the combusted landfill gas as determined in § 60.18(f)(3) is calculated from the concentration of methane in the landfill gas as measured by Method 3C. A minimum of three 30-minute Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under § 60.18(f)(4).

(1) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by § 60.764(b) or (d) according to § 60.767(i)(1).

(2) [Reserved]

§ 60.765 Compliance provisions.

(a) Except as provided in § 60.767(c)(2), the specified methods in paragraphs (a)(1) through (6) of this section must be used to determine whether the gas collection system is in compliance with § 60.762(b)(2)(ii).

(1) For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with § 60.762(b)(2)(ii)(C)(*1*), either Equation 5 or Equation 6 must be used. The methane generation rate constant (k) and methane generation potential (L_o) kinetic factors should be those published in the most recent Compilation of Air Pollutant Emission Factors (AP–42) or other site specific values demonstrated to be appropriate and approved by the Administrator. If k has been determined as specified in § 60.764(a)(4), the value of k determined from the test must be used. A value of no more than 15 years must be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

(i) For sites with unknown year-to-year solid waste acceptance rate:

$$Q_m = 2L_oR\ (e^{-kc} - e^{-kt}) \qquad \text{(Eq. 5)}$$

Where:

Q_m = Maximum expected gas generation flow rate, cubic meters per year.

L_o = Methane generation potential, cubic meters per megagram solid waste.

R = Average annual acceptance rate, megagrams per year.

k = Methane generation rate constant, year^{-1}.

t = Age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t is the age of the landfill at installation, years.

c = Time since closure, years (for an active landfill c = 0 and $e^{-kc} = 1$).

(ii) For sites with known year-to-year solid waste acceptance rate:

$$Q_M = \sum_{i=1}^{n} 2kL_oM_i(e^{-kt_i}) \qquad \text{(Eq. 6)}$$

Where:

Q_M = Maximum expected gas generation flow rate, cubic meters per year.

k = Methane generation rate constant, year^{-1}.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of solid waste in the ith section, megagrams.

t_i = Age of the ith section, years.

(iii) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, Equation 5 or Equation 6 in paragraphs (a)(1)(i) and (ii) of this section. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using Equation 5 or Equation 6 in paragraphs (a)(1)(i) or (ii) of this section or other methods must be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

(2) For the purposes of determining sufficient density of gas collectors for compliance with § 60.762(b)(2)(ii)(C)(*2*), the owner or operator must design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the Administrator, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

(3) For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with § 60.762(b)(2)(ii)(C)(*3*), the owner or operator must measure gauge pressure in the gas collection header applied to each individual well, monthly. If a positive pressure exists, action must be initiated to correct the exceedance within 5 calendar days, except for the three conditions allowed under § 60.763(b). Any attempted corrective measure must not cause exceedances of other operational or performance standards.

(i) If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement of positive pressure, the owner or operator must conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after positive pressure was first measured. The owner or operator must keep records according to § 60.768(e)(3).

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the positive pressure measurement. The owner or operator must submit the items listed in § 60.767(g)(7) as part of the next annual report. The owner or operator must keep records according to § 60.768(e)(4).

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator, according to § 60.767(g)(7) and § 60.767(j). The owner or operator must keep records according to § 60.768(e)(5).

(4) [Reserved]

(5) For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator must monitor each well monthly for temperature as provided in § 60.763(c). If a well exceeds the operating parameter for temperature, action must be initiated to correct the exceedance within 5 calendar days. Any attempted corrective measure must not cause exceedances of other operational or performance standards.

(i) If a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit) cannot be achieved within 15 calendar days of the first measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit), the owner or operator must conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after a landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit) was first measured. The owner or operator must keep records according to § 60.768(e)(3).

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator must submit the items listed in § 60.767(g)(7) as part of the next annual report. The owner or operator must keep records according to § 60.768(e)(4).

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator, according to § 60.767(g)(7) and § 60.767(j). The owner or operator must keep records according to § 60.768(e)(5).

(6) An owner or operator seeking to demonstrate compliance with § 60.762(b)(2)(ii)(C)(*4*) through the use of a collection system not conforming to the specifications provided in § 60.769 must provide information satisfactory to the Administrator as specified in § 60.767(c)(3) demonstrating that off-site migration is being controlled.

(b) For purposes of compliance with § 60.763(a), each owner or operator of a controlled landfill must place each well or design component as specified in the approved design plan as provided in § 60.767(c). Each well must be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

(1) Five (5) years or more if active; or

(2) Two (2) years or more if closed or at final grade.

(c) The following procedures must be used for compliance with the surface methane operational standard as provided in § 60.763(d).

(1) After installation and startup of the gas collection system, the owner or operator must monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in paragraph (d) of this section.

(2) The background concentration must be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

(3) Surface emission monitoring must be performed in accordance with section 8.3.1 of Method 21 of appendix A of this part, except that the probe inlet must be placed within 5 to 10 centimeters of the ground. Monitoring must be performed during typical meteorological conditions.

(4) Any reading of 500 parts per million or more above background at any location must be recorded as a monitored exceedance and the actions specified in paragraphs (c)(4)(i) through (v) of this section must be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of § 60.763(d).

(i) The location of each monitored exceedance must be marked and the location and concentration recorded.

(ii) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance must be made and the location must be re-monitored within 10 calendar days of detecting the exceedance.

(iii) If the re-monitoring of the location shows a second exceedance, additional corrective action must be taken and the location must be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in paragraph (c)(4)(v) of this section must be taken, and no further monitoring of that location is required until the action specified in paragraph (c)(4)(v) of this section has been taken.

(iv) Any location that initially showed an exceedance but has a methane concentration less than 500 ppm methane above background at the 10-day re-monitoring specified in paragraph (c)(4)(ii) or (iii) of this section must be re-monitored 1 month from the initial exceedance. If the 1-month re-monitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month re-monitoring shows an exceedance, the actions specified in paragraph (c)(4)(iii) or (v) of this section must be taken.

(v) For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device must be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the Administrator for approval.

(5) The owner or operator must implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

(d) Each owner or operator seeking to comply with the provisions in paragraph (c) of this section or § 60.764(a)(6) must comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

(1) The portable analyzer must meet the instrument specifications provided in section 6 of Method 21 of appendix A of this part, except that "methane" replaces all references to "VOC".

(2) The calibration gas must be methane, diluted to a nominal concentration of 500 parts per million in air.

(3) To meet the performance evaluation requirements in section 8.1 of Method 21 of appendix A of this part, the instrument evaluation procedures of section 8.1 of Method 21 of appendix A of this part must be used.

(4) The calibration procedures provided in sections 8 and 10 of Method 21 of appendix A of this part must be followed immediately before commencing a surface monitoring survey.

(e) The provisions of this subpart apply at all times, including periods of startup, shutdown or malfunction. During periods of startup, shutdown, and malfunction, you must comply with the work practice specified in § 60.763(e) in lieu of the compliance provisions in § 60.765.

§ 60.766 Monitoring of operations.

Except as provided in § 60.767(c)(2):

(a) Each owner or operator seeking to comply with § 60.762(b)(2)(ii)(C) for an active gas collection system must install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

(1) Measure the gauge pressure in the gas collection header on a monthly basis as provided in § 60.765(a)(3); and

(2) Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as follows:

(i) The nitrogen level must be determined using Method 3C, unless an alternative test method is established as allowed by § 60.767(c)(2).

(ii) Unless an alternative test method is established as allowed by § 60.767(c)(2), the oxygen level must be determined by an oxygen meter using Method 3A, 3C, or ASTM D6522–11 (incorporated by reference, see § 60.17). Determine the oxygen level by an oxygen meter using Method 3A, 3C, or ASTM D6522–11 (if sample location is prior to combustion) except that:

(A) The span must be set between 10 and 12 percent oxygen;

(B) A data recorder is not required;

(C) Only two calibration gases are required, a zero and span;

(D) A calibration error check is not required;

(E) The allowable sample bias, zero drift, and calibration drift are ±10 percent.

(iii) A portable gas composition analyzer may be used to monitor the oxygen levels provided:

(A) The analyzer is calibrated; and

(B) The analyzer meets all quality assurance and quality control requirements for Method 3A or ASTM D6522–11 (incorporated by reference, see § 60.17).

(3) Monitor temperature of the landfill gas on a monthly basis as provided in § 60.765(a)(5). The temperature measuring device must be calibrated annually using the procedure in 40 CFR part 60, appendix A–1, Method 2, Section 10.3.

(b) Each owner or operator seeking to comply with § 60.762(b)(2)(iii) using an enclosed combustor must calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment:

(1) A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ±1 percent of the temperature being

measured expressed in degrees Celsius or ±0.5 degrees Celsius, whichever is greater. A temperature monitoring device is not required for boilers or process heaters with design heat input capacity equal to or greater than 44 megawatts.

(2) A device that records flow to the control device and bypass of the control device (if applicable). The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that must record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(c) Each owner or operator seeking to comply with § 60.762(b)(2)(iii) using a non-enclosed flare must install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

(1) A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.

(2) A device that records flow to the flare and bypass of the flare (if applicable). The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(d) Each owner or operator seeking to demonstrate compliance with § 60.762(b)(2)(iii) using a device other than a non-enclosed flare or an enclosed combustor or a treatment system must provide information satisfactory to the Administrator as provided in § 60.767(c)(2) describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator must review the information and either approve it, or request that additional information be submitted. The Administrator may specify additional appropriate monitoring procedures.

(e) Each owner or operator seeking to install a collection system that does not meet the specifications in § 60.769 or seeking to monitor alternative parameters to those required by §§ 60.763 through 60.766 must provide information satisfactory to the Administrator as provided in § 60.767(c)(2) and (3) describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator may specify additional appropriate monitoring procedures.

(f) Each owner or operator seeking to demonstrate compliance with the 500 parts per million surface methane operational standard in § 60.763(d) must monitor surface concentrations of methane according to the procedures in § 60.765(c) and the instrument specifications in § 60.765(d). Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 ppm or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

(g) Each owner or operator seeking to demonstrate compliance with § 60.762(b)(2)(iii) using a landfill gas treatment system must maintain and operate all monitoring systems associated with the treatment system in accordance with the site-specific treatment system monitoring plan required in § 60.768(b)(5)(ii) and must calibrate, maintain, and operate according to the manufacturer's specifications a device that records flow to the treatment system and bypass of the treatment system (if applicable). The owner or operator must:

(1) Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the treatment system at least every 15 minutes; and

(2) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(h) The monitoring requirements of paragraphs (b), (c) (d) and (g) of this section apply at all times the affected source is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You are required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

§ 60.767 Reporting requirements.

(a) *Design capacity report.* Each owner or operator subject to the requirements of this subpart must submit an initial design capacity report to the Administrator.

(1) *Submission.* The initial design capacity report fulfills the requirements of the notification of the date construction is commenced as required by § 60.7(a)(1) and must be submitted no later than:

(i) November 28, 2016, for landfills that commenced construction, modification, or reconstruction after July 17, 2014 but before August 29, 2016; or

(ii) Ninety days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction after August 29, 2016.

(2) *Initial design capacity report.* The initial design capacity report must contain the following information:

(i) A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid waste may be landfilled according to the permit issued by the state, local, or tribal agency responsible for regulating the landfill.

(ii) The maximum design capacity of the landfill. Where the maximum design capacity is specified in the permit issued by the state, local, or tribal agency responsible for regulating the landfill, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity must be calculated using good engineering practices. The calculations must be provided, along with the relevant parameters as part of the report. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually. Any density conversions must be documented and submitted with the design capacity report. The state, tribal, local agency or Administrator may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

(3) *Amended design capacity report.* An amended design capacity report must be submitted to the Administrator providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in § 60.768(f).

(b) *NMOC emission rate report.* Each owner or operator subject to the requirements of this subpart must submit an NMOC emission rate report following the procedure specified in paragraph (i)(2) of this section to the Administrator initially and annually thereafter, except as provided for in paragraph (b)(1)(ii) of this section. The Administrator may request such additional information as may be necessary to verify the reported NMOC emission rate.

(1) The NMOC emission rate report must contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures provided in § 60.764(a) or (b), as applicable.

(i) The initial NMOC emission rate report may be combined with the initial design capacity report required in paragraph (a) of this section and must be submitted no later than indicated in paragraphs (b)(1)(i)(A) and (B) of this section. Subsequent NMOC emission rate reports must be submitted annually thereafter, except as provided for in paragraph (b)(1)(ii) of this section.

(A) November 28, 2016, for landfills that commenced construction, modification, or reconstruction after July 17, 2014, but before August 29, 2016, or

(B) Ninety days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction after August 29, 2016.

(ii) If the estimated NMOC emission rate as reported in the annual report to the Administrator is less than 34 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit, following the procedure specified in paragraph (i)(2) of this section, an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate must include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based must be provided to the Administrator. This estimate must be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate must be submitted to the Administrator. The revised estimate must cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

(2) The NMOC emission rate report must include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

(3) Each owner or operator subject to the requirements of this subpart is exempted from the requirements to submit an NMOC emission rate report, after installing a collection and control system that complies with § 60.762(b)(2), during such time as the collection and control system is in operation and in compliance with §§ 60.763 and 60.765.

(c) *Collection and control system design plan.* Each owner or operator subject to the provisions of § 60.762(b)(2) must submit a collection and control system design plan to the Administrator for approval according to the schedule in paragraph (c)(4) of this section. The collection and control system design plan must be prepared and approved by a professional engineer and must meet the following requirements:

(1) The collection and control system as described in the design plan must meet the design requirements in § 60.762(b)(2).

(2) The collection and control system design plan must include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping or reporting provisions of §§ 60.763 through 60.768 proposed by the owner or operator.

(3) The collection and control system design plan must either conform with specifications for active collection systems in § 60.769 or include a demonstration to the Administrator's satisfaction of the sufficiency of the alternative provisions to § 60.769.

(4) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must submit a collection and control system design plan to the Administrator for approval within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year, except as follows:

(i) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in § 60.764(a)(3) and the resulting rate is less than 34 megagrams per year, annual periodic reporting must be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated emission rate is equal to or greater than 34 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated emission rate based on NMOC sampling and analysis, must be submitted, following the procedures in paragraph (i)(2) of this section, within 180 days of the first calculated exceedance of 34 megagrams per year.

(ii) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant k, as provided in Tier 3 in § 60.764(a)(4), and the resulting NMOC emission rate is less than 34 Mg/yr, annual periodic reporting must be resumed. The resulting site-specific methane generation rate constant k must be used in the emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of § 60.764(a)(4) and the resulting site-specific methane generation rate constant k must be submitted, following the procedure specified in paragraph (i)(2) of this section, to the Administrator within 1 year of the first calculated emission rate equaling or exceeding 34 megagrams per year.

(iii) If the owner or operator elects to demonstrate that site-specific surface methane emissions are below 500 parts per million methane, based on the provisions of § 60.764(a)(6), then the owner or operator must submit annually a Tier 4 surface emissions report as specified in this paragraph following the procedure specified in paragraph (i)(2) of this section until a surface emissions readings of 500 parts per million methane or greater is found. If the Tier 4 surface emissions report shows no surface emissions readings of 500 parts per million methane or greater for four consecutive quarters at a closed landfill, then the landfill owner or operator may reduce Tier 4 monitoring from a quarterly to an annual frequency. The Administrator may request such additional information as may be necessary to verify the reported instantaneous surface emission readings. The Tier 4 surface emissions report must clearly identify the location, date and time (to nearest second), average wind speeds including wind gusts, and reading (in parts per million) of any value 500 parts per million methane or greater, other than non-repeatable, momentary readings. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates must be in decimal degrees with at least five decimal places. The Tier 4 surface emission report must also include the results of the most recent Tier 1 and Tier 2 results in order to verify that the landfill does not exceed 50 Mg/yr of NMOC.

(A) The initial Tier 4 surface emissions report must be submitted annually, starting within 30 days of completing the fourth quarter of Tier 4 surface emissions monitoring that demonstrates that site-specific surface methane emissions are below 500 parts per million methane, and following the procedure specified in paragraph (i)(2) of this section.

(B) The Tier 4 surface emissions report must be submitted within 1 year of the first measured surface exceedance of 500 parts per million methane, following the procedure specified in paragraph (i)(2) of this section.

(5) The landfill owner or operator must notify the Administrator that the design plan is completed and submit a copy of the plan's signature page. The Administrator has 90 days to decide whether the design plan should be submitted for review. If the Administrator chooses to review the plan, the approval process continues as described in paragraph (c)(6) of this section. However, if the Administrator indicates that submission is not required or does not respond within 90 days, the landfill owner or operator can continue to implement the plan with the recognition that the owner or operator is proceeding at their own risk. In the event that the design plan is required to be modified to obtain approval, the owner or operator must take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action.

(6) Upon receipt of an initial or revised design plan, the Administrator must review the information submitted under paragraphs (c)(1) through (3) of this section and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems. If the Administrator does not approve or disapprove the design plan, or does not request that additional information be submitted within 90 days of receipt, then the owner or operator may continue with implementation of the design plan, recognizing they would be proceeding at their own risk.

(7) If the owner or operator chooses to demonstrate compliance with the emission control requirements of this subpart using a treatment system as defined in this subpart, then the owner or operator must prepare a site-specific treatment system monitoring plan as specified in § 60.768(b)(5).

(d) *Revised design plan.* The owner or operator who has already been required to submit a design plan under paragraph (c) of this section must submit a revised design plan to the Administrator for approval as follows:

(1) At least 90 days before expanding operations to an area not covered by the previously approved design plan.

(2) Prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Administrator according to paragraph (c) of this section.

(e) *Closure report.* Each owner or operator of a controlled landfill must submit a closure report to the Administrator within 30 days of waste acceptance cessation. The Administrator may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of 40 CFR 258.60. If a closure report has been submitted to the Administrator, no additional wastes may be placed into the landfill without filing a notification of modification as described under § 60.7(a)(4).

(f) *Equipment removal report.* Each owner or operator of a controlled landfill must submit an equipment removal report to the Administrator 30 days prior to removal or cessation of operation of the control equipment.

(1) The equipment removal report must contain all of the following items:

(i) A copy of the closure report submitted in accordance with paragraph (e) of this section;

(ii) A copy of the initial performance test report demonstrating that the 15-year minimum control period has expired, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX, or information that demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flows. In the equipment removal report, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX; and

(iii) Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 34 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports.

(2) The Administrator may request such additional information as may be necessary to verify that all of the conditions for removal in § 60.762(b)(2)(v) have been met.

(g) *Annual report.* The owner or operator of a landfill seeking to comply with § 60.762(b)(2) using an active collection system designed in accordance with § 60.762(b)(2)(ii) must submit to the Administrator, following the procedure specified in paragraph (i)(2) of this section, annual reports of the recorded information in paragraphs (g)(1) through (7) of this section. The initial annual report must be submitted within 180 days of installation and startup of the collection and control system, and must include the initial performance test report required under § 60.8, as applicable, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX. In the initial annual report, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX. For enclosed combustion devices and flares, reportable exceedances are defined under § 60.768(c).

(1) Value and length of time for exceedance of applicable parameters monitored under § 60.766(a), (b), (c), (d), and (g).

(2) Description and duration of all periods when the gas stream was diverted from the control device or treatment system through a bypass line or the indication of bypass flow as specified under § 60.766.

(3) Description and duration of all periods when the control device or treatment system was not operating and length of time the control device or treatment system was not operating.

(4) All periods when the collection system was not operating.

(5) The location of each exceedance of the 500 parts per million methane concentration as provided in § 60.763(d) and the concentration recorded at each location for which an exceedance was recorded in the previous month. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates must be in decimal degrees with at least five decimal places.

(6) The date of installation and the location of each well or collection system expansion added pursuant to § 60.765(a)(3), (a)(5), (b), and (c)(4).

(7) For any corrective action analysis for which corrective actions are required in § 60.765(a)(3) or (5) and that take more than 60 days to correct the exceedance, the root cause analysis conducted, including a description of the recommended corrective action(s), the date for corrective action(s) already completed following the positive pressure reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(h) *Initial performance test report.* Each owner or operator seeking to comply with § 60.762(b)(2)(iii) must include the following information with the initial performance test report required under § 60.8:

(1) A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

(2) The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;

(3) The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

(4) The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area; and

(5) The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

(6) The provisions for the control of off-site migration.

(i) *Electronic reporting.* The owner or operator must submit reports electronically according to paragraphs (i)(1) and (2) of this section.

(1) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of each performance test according to the following procedures:

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*https://www3.epa.gov/ttn/chief/ert/ert_info.html*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternative file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site, once the XML schema is available. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(2) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX.) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI Web site (*https://www3.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. Once the form has been available in CEDRI for 90 calendar days, the owner or operator must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(j) *Corrective action and the corresponding timeline.* The owner or operator must submit according to paragraphs (j)(1) and (j)(2) of this section.

(1) For corrective action that is required according to § 60.765(a)(3)(iii) or (a)(5)(iii) and is expected to take longer than 120 days after the initial exceedance to complete, you must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit). The Administrator must approve the plan for corrective action and the corresponding timeline.

(2) For corrective action that is required according to § 60.765(a)(3)(iii) or (a)(5)(iii) and is not completed within 60 days after the initial exceedance, you must submit a notification to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature exceedance.

(k) *Liquids addition.* The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research, Development, and Demonstration permit (issued through Resource Conservation and Recovery Act, subtitle D, part 258) within the last 10 years must submit to the Administrator, annually, following the procedure specified in paragraph (i)(2) of this section, the following information:

(1) Volume of leachate recirculated (gallons per year) and the reported basis of those estimates (records or engineering estimates).

(2) Total volume of all other liquids added (gallons per year) and the reported basis of those estimates (records or engineering estimates).

(3) Surface area (acres) over which the leachate is recirculated (or otherwise applied).

(4) Surface area (acres) over which any other liquids are applied.

(5) The total waste disposed (megagrams) in the areas with recirculated leachate and/or added liquids based on on-site records to the extent data are available, or engineering estimates and the reported basis of those estimates.

(6) The annual waste acceptance rates (megagrams per year) in the areas with recirculated leachate and/or added liquids, based on on-site records to the extent data are available, or engineering estimates.

(7) The initial report must contain items in paragraph (k)(1) through (6) of this section per year for the initial annual reporting period as well as for each of the previous 10 years, to the extent historical data are available in on-site records, and the report must be submitted no later than:

(i) September 27, 2017, for landfills that commenced construction, modification, or reconstruction after July 17, 2014 but before August 29, 2016 containing data for the first 12 months after August 29, 2016; or

(ii) Thirteen (13) months after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction after August 29, 2016 containing data for the first 12 months after August 29, 2016.

(8) Subsequent annual reports must contain items in paragraph (k)(1) through (6) of this section for the 365-day period following the 365-day period included in the previous annual report, and the report must be submitted no later than 365 days after the date the previous report was submitted.

(9) Landfills may cease annual reporting of items in paragraphs (k)(1) through (7) of this section once they have submitted the closure report in paragraph (e) of this section.

(l) *Tier 4 notification.* (1) The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must provide a notification of the date(s) upon which it intends to demonstrate site-specific surface methane emissions are below 500 parts per million methane, based on the Tier 4 provisions of § 60.764(a)(6). The landfill must also include a description of the wind barrier to be used during the SEM in the notification. Notification must be postmarked not less than 30 days prior to such date.

(2) If there is a delay to the scheduled Tier 4 SEM date due to weather conditions, including not meeting the wind requirements in § 60.764(a)(6)(iii)(A), the owner or operator of a landfill shall notify the Administrator by email or telephone no later than 48 hours before any delay or cancellation in the original test date, and arrange an updated date with the Administrator by mutual agreement.

§ 60.768 Recordkeeping requirements.

(a) Except as provided in § 60.767(c)(2), each owner or operator of an MSW landfill subject to the provisions of § 60.762(b)(2)(ii) and (iii) must keep for at least 5 years up-to-date, readily accessible, on-site records of the design capacity report that triggered § 60.762(b), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(b) Except as provided in § 60.767(c)(2), each owner or operator of a controlled landfill must keep up-to-date, readily accessible records for the life of the control system equipment of the data listed in paragraphs (b)(1) through (5) of this section as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring must be maintained for a minimum of 5 years. Records of the control device vendor specifications must be maintained until removal.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(ii):

(i) The maximum expected gas generation flow rate as calculated in § 60.765(a)(1). The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Administrator.

(ii) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in § 60.769(a)(1).

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(iii) through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

(i) The average temperature measured at least every 15 minutes and averaged over the same time period of the performance test.

(ii) The percent reduction of NMOC determined as specified in § 60.762(b)(2)(iii)(B) achieved by the control device.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(iii)(B)(*1*) through use of a boiler or process heater of any size: A description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance testing.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(iii)(A) through use of a non-enclosed flare, the flare type (*i.e.,* steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in § 60.18; continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the pilot flame of the flare flame is absent.

(5) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(iii) through use of a landfill gas treatment system:

(i) *Bypass records.* Records of the flow of landfill gas to, and bypass of, the treatment system.

(ii) *Site-specific treatment monitoring plan,* to include:

(A) Monitoring records of parameters that are identified in the treatment system monitoring plan and that ensure the treatment system is operating properly for each intended end use of the treated landfill gas. At a minimum, records should include records of filtration, de-watering, and compression parameters that ensure the treatment system is operating properly for each intended end use of the treated landfill gas.

(B) Monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for each intended end use of the treated landfill gas.

(C) Documentation of the monitoring methods and ranges, along with justification for their use.

(D) Identify who is responsible (by job title) for data collection.

(E) Processes and methods used to collect the necessary data.

(F) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

(c) Except as provided in § 60.767(c)(2), each owner or operator of a controlled landfill subject to the provisions of this subpart must keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in § 60.766 as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

(1) The following constitute exceedances that must be recorded and reported under § 60.767(g):

(i) For enclosed combustors except for boilers and process heaters with design heat input capacity of 44 megawatts (150 million British thermal units per hour) or greater, all 3-hour periods of operation during which the average temperature was more than 28 degrees Celsius (82 degrees Fahrenheit) below the average combustion temperature during the most recent performance test at which compliance with § 60.762(b)(2)(iii) was determined.

(ii) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under paragraph (b)(3) of this section.

(2) Each owner or operator subject to the provisions of this subpart must keep up-to-date, readily accessible continuous records of the indication of flow to the control system and the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under § 60.766.

(3) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with § 60.762(b)(2)(iii) must keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other state, local, tribal, or federal regulatory requirements.)

(4) Each owner or operator seeking to comply with the provisions of this subpart by use of a non-enclosed flare must keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under § 60.766(c), and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

(5) Each owner or operator of a landfill seeking to comply with § 60.762(b)(2) using an active collection system designed in accordance with § 60.762(b)(2)(ii) must keep records of periods when the collection system or control device is not operating.

(d) Except as provided in § 60.767(c)(2), each owner or operator subject to the provisions of this subpart must keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label for each collector.

(1) Each owner or operator subject to the provisions of this subpart must keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under § 60.765(b).

(2) Each owner or operator subject to the provisions of this subpart must keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in § 60.769(a)(3)(i) as well as any nonproductive areas excluded from collection as provided in § 60.769(a)(3)(ii).

(e) Except as provided in § 60.767(c)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of the following:

(1) All collection and control system exceedances of the operational standards in § 60.763, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

(2) Each owner or operator subject to the provisions of this subpart must also keep records of each wellhead temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above, each wellhead nitrogen level at or above 20 percent, and each wellhead oxygen level at or above 5 percent.

(3) For any root cause analysis for which corrective actions are required in § 60.765(a)(3)(i) or (a)(5)(i), keep a record of the root cause analysis conducted, including a description of the recommended corrective action(s) taken, and the date(s) the corrective action(s) were completed.

(4) For any root cause analysis for which corrective actions are required in § 60.765(a)(3)(ii) or (a)(5)(ii), keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(5) For any root cause analysis for which corrective actions are required in § 60.765(a)(3)(iii) or (a)(5)(iii), keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates, and a copy of any comments or final approval on the corrective action analysis or schedule from the regulatory agency.

(f) Landfill owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity", must keep readily accessible, on-site records of the annual recalculation of site-specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(g) Landfill owners or operators seeking to demonstrate that site-specific surface methane emissions are below 500 parts per million by conducting surface emission monitoring under the Tier 4 procedures specified in § 60.764(a)(6) must keep for at least 5 years up-to-date, readily accessible records of all surface emissions monitoring and information related to monitoring instrument calibrations conducted according to sections 8 and 10 of Method 21 of appendix A of this part, including all of the following items:

(1) Calibration records:

(i) Date of calibration and initials of operator performing the calibration.

(ii) Calibration gas cylinder identification, certification date, and certified concentration.

(iii) Instrument scale(s) used.

(iv) A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value.

(v) If an owner or operator makes their own calibration gas, a description of the procedure used.

(2) Digital photographs of the instrument setup, including the wind barrier. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration.

(3) Timestamp of each surface scan reading:

(i) Timestamp should be detailed to the nearest second, based on when the sample collection begins.

(ii) A log for the length of time each sample was taken using a stopwatch (*e.g.*, the time the probe was held over the area).

(4) Location of each surface scan reading. The owner or operator must determine the coordinates using an instrument with an accuracy of at least 4 meters. Coordinates must be in decimal degrees with at least five decimal places.

(5) Monitored methane concentration (parts per million) of each reading.

(6) Background methane concentration (parts per million) after each instrument calibration test.

(7) Adjusted methane concentration using most recent calibration (parts per million).

(8) For readings taken at each surface penetration, the unique identification location label matching the label specified in paragraph (d) of this section.

(9) Records of the operating hours of the gas collection system for each destruction device.

(h) Except as provided in § 60.767(c)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in § 60.766(a)(1), (2), and (3).

(i) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

(j) For each owner or operator reporting leachate or other liquids addition under § 60.767(k), keep records of any engineering calculations or company records used to estimate the quantities of leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

§ 60.769 Specifications for active collection systems.

(a) Each owner or operator seeking to comply with § 60.762(b)(2)(i) must site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the Administrator as provided in § 60.767(c)(2) and (3):

(1) The collection devices within the interior must be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues must be addressed in the design: Depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, resistance to the refuse decomposition heat, and ability to isolate individual components or sections for repair or troubleshooting without shutting down entire collection system.

(2) The sufficient density of gas collection devices determined in paragraph (a)(1) of this section must address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

(3) The placement of gas collection devices determined in paragraph (a)(1) of this section must control all gas producing areas, except as provided by paragraphs (a)(3)(i) and (ii) of this section.

(i) Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under § 60.768(d). The documentation must provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and must be provided to the Administrator upon request.

(ii) Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The amount, location, and age of the material must be documented and provided to the Administrator upon request. A separate NMOC emissions estimate must be made for each section proposed for exclusion, and the sum of all such sections must be compared to the NMOC emissions estimate for the entire landfill.

(A) The NMOC emissions from each section proposed for exclusion must be computed using Equation 7:

$$Q_i = 2\ k\ L_o M_i (e^{-kt_i})\ (C_{NMOC})\ (3.6 \times 10^{-9}) \qquad \text{(Eq.7)}$$

Where:

Q_i = NMOC emission rate from the i^{th} section, megagrams per year.

k = Methane generation rate constant, $year^{-1}$.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of the degradable solid waste in the i^{th} section, megagram.

t_i = Age of the solid waste in the i^{th} section, years.

C_{NMOC} = Concentration of nonmethane organic compounds, parts per million by volume.

3.6×10^{-9} = Conversion factor.

(B) If the owner/operator is proposing to exclude, or cease gas collection and control from, nonproductive physically separated (*e.g.*, separately lined) closed areas that already have gas collection systems, NMOC emissions from each physically separated closed area must be computed using either Equation 3 in § 60.764(b) or Equation 7 in paragraph (a)(3)(ii)(A) of this section.

(iii) The values for k and C_{NMOC} determined in field testing must be used if field testing has been performed in determining the NMOC emission rate or the radii of influence (this distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k, L_o and C_{NMOC} provided in § 60.764(a)(1) or the alternative values from § 60.764(a)(5) must be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in paragraph (a)(3)(i) of this section.

(b) Each owner or operator seeking to comply with § 60.762(b)(2)(ii)(A) construct the gas collection devices using the following equipment or procedures:

(1) The landfill gas extraction components must be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: Convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system must extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors must be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations must be situated with regard to the need to prevent excessive air infiltration.

(2) Vertical wells must be placed so as not to endanger underlying liners and must address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors must be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices must be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

(3) Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly must include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices must be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(c) Each owner or operator seeking to comply with § 60.762(b)(2)(iii) must convey the landfill gas to a control system in compliance with § 60.762(b)(2)(iii) through the collection header pipe(s). The gas mover equipment must be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

(1) For existing collection systems, the flow data must be used to project the maximum flow rate. If no flow data exists, the procedures in paragraph (c)(2) of this section must be used.

(2) For new collection systems, the maximum flow rate must be in accordance with § 60.765(a)(1).

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Part IV

Department of Energy

10 CFR Parts 429 and 430
Energy Conservation Program: Test Procedure for Compact Fluorescent Lamps; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2015–BT–TP–0014]

RIN 1904–AC74

Energy Conservation Program: Test Procedure for Compact Fluorescent Lamps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Department of Energy's (DOE) test procedures for medium base compact fluorescent lamps (MBCFLs) and adopts test procedures for new metrics for all CFLs including hybrid CFLs and CFLs with bases other than medium screw base. In this final rule, DOE replaces references to ENERGY STAR® testing requirements with references to the latest versions of the relevant industry standard test methods referenced by the ENERGY STAR testing requirements, with certain modifications. In addition, DOE adopts new test procedures to support the ongoing energy conservation standards rulemaking for general service lamps (GSLs), the recently revised final test procedure and energy conservation standards for ceiling fan light kits (CFLKs), and the labeling requirements specified by the Federal Trade Commission (FTC). The test procedures will also support the ENERGY STAR program requirements for lamps and luminaires. Specifically, this final rule adopts test methods for new metrics including color rendering index (CRI), correlated color temperature (CCT), power factor, and start time. DOE also adopts test procedures for additional CFL categories, including non-integrated CFLs and integrated CFLs that are not MBCFLs. This final rule also revises the sampling plan for performance metrics and incorporates methods to measure standby mode power.

DATES: The effective date of this rule is September 28, 2016. Representations must be based on testing in accordance with the final rule starting February 27, 2017. The incorporation by reference of certain publications listed in this rule was approved by the Director of the Federal Register on September 28, 2016.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at *https://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/28.* This Web page will contain a link to the docket for this notice on the *www.regulations.gov* site. The *www.regulations.gov* Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Emily Marchetti at (202) 586–6636 or by email: *medium_base_compact_fluorescent_lamps@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 287–1604. Email: *medium_base_compact_fluorescent_lamps@ee.doe.gov.*

Mr. Peter Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *peter.cochran@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into part 430 specific sections of the following industry standards:

(1) American National Standards Institute and International Electrotechnical Commission (ANSI) C78.901–2014, American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics. Copies of ANSI C78.901–2014 can be obtained from ANSI Attn: Customer Service Department, 25 W 43rd Street, 4th Floor, New York, NY, 10036, or by going to *http://webstore.ansi.org/.*

(2) CIE 13.3–1995 ("CIE 13.3"), Technical Report: Method of Measuring and Specifying Colour Rendering Properties of Light Sources, 1995, ISBN 3 900 734 57 7.

(3) CIE 15:2004 ("CIE 15"), Technical Report: Colorimetry, 3rd edition, 2004, ISBN 978 3 901906 33 6.

Copies of CIE 13.3 and CIE 15 can be obtained from Commission Internationale de l'Eclairage, Central Bureau, Kegelgasse 27, A–1030, Vienna, Austria, 011 + 43 1 714 31 87 0, or by going to *http://www.cie.co.at.*

(4) IEC 62301 ("IEC 62301–W"), Household electrical appliances—Measurement of standby power (Edition 2.0, 2011–01).

A copy of IEC 62301 can be obtained from the American National Standards Institute, 25 W. 43rd Street, 4th Floor, New York, NY 10036, (212) 642–4900, or by going to *http://webstore.ansi.org.*

(5) Illuminating Engineering Society of North America (IES) LM–54–12, IES Guide to Lamp Seasoning.

(6) IES LM–65–14, IES Approved Method for Life Testing of Single-Based Fluorescent Lamps.

(7) IES LM–66–14, ("IES LM–66"), IES Approved Method for the Electrical and Photometric Measurements of Single-Based Fluorescent Lamps.

(8) IESNA LM–78–07, IESNA Approved Method for Total Luminous Flux Measurement of Lamps Using an Integrating Sphere Photometer. Copies of IES LM–54–12, IES LM–65–14, IES LM–66 and IES LM–78–07 can be obtained from IES, 120 Wall Street, Floor 17, New York, NY 10005–4001, or by going to *www.ies.org/store.*

For a further discussion of these standards, see section IV.M.

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I. Authority and Background

A. Authority

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.;* "EPCA" or, "the Act") sets forth a variety of provisions designed to improve energy efficiency.[1] Part B of title III, which for editorial reasons was redesignated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–6309, as codified), established the "Energy Conservation Program for Consumer Products Other Than Automobiles." CFLs are among the consumer products affected by these provisions.

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA (42 U.S.C. 6295(s)) and (2) making representations about the energy use or efficiency of the products (42 U.S.C. 6293(c)).

EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides, in relevant part, that any new or amended test procedure shall be reasonably designed to produce test results that measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish a proposed test procedure and offer the public an opportunity to present oral and written comments. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of the covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered equipment, including MBCFLs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6293(b)(1)(A))

Finally, EPCA directs DOE to amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)) DOE has determined that, while no CFLs are capable of operating under off mode, some CFLs are capable of operating under standby mode. Consequently, DOE adopts a test procedure for measuring standby mode power in appendix W, as detailed in section III.A.6 of this final rule.

B. Background

The Energy Policy Act of 2005 (Public Law 109–58) amended EPCA to require that MBCFL test procedures be based on the August 2001 version of the ENERGY STAR® Program Requirements for CFLs. (42 U.S.C. 6293(b)(12)) Consistent with this requirement, DOE published a final rule on December 8, 2006 (December 2006 final rule) that established DOE's current test procedures for MBCFLs under 10 CFR part 430, subpart B, appendix W. 71 FR 71340. The December 2006 final rule established test procedures for initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, rapid cycle stress test, and lifetime for MBCFLs. *Id.*

EPCA, however, also requires that at least once every 7 years, DOE must conduct an evaluation of all covered products and either amend the test procedures (if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of 42 U.S.C. 6293(b)(3)) or publish a determination in the **Federal Register** not to amend them. (42 U.S.C. 6293(b)(1)(A)) The ENERGY STAR Program Requirements for CFLs have been updated several times since 2001 to reflect current best practices and technological developments. This final rule amends the CFL test procedure to directly reference the latest industry standards in accordance with this EPCA requirement.

On July 31, 2015, DOE issued a NOPR (July 2015 NOPR) to amend and expand its test procedures for CFLs. 80 FR 45723. DOE then held a public meeting to discuss these proposed amendments on August 31, 2015, and allowed for written comments to be submitted through October 14, 2015. This rule addresses comments that were received on the proposal and finalizes many of the proposed changes to appendix W to subpart B of 10 CFR part 430 and to 10 CFR part 429.

II. Synopsis of the Final Rule

In this final rule, DOE replaces the existing references to ENERGY STAR program requirements with direct references to the latest versions of the appropriate industry test methods from the Illuminating Engineering Society of North America (IES) (see section III.A.1 for further details). Directly referencing the latest industry standards will allow DOE to adopt current best practices and technological developments in its test procedures.

DOE also adopts, in this rule, test procedures for additional CFL categories and metrics to support energy conservation standard rulemakings for GSLs and CFLKs. DOE's existing test procedures apply only to integrated CFLs with medium screw bases (*i.e.*, MBCFLs). Integrated CFLs (also referred to as self-ballasted or integrally ballasted) contain all components necessary for the starting and stable operation of the lamp, do not include any replaceable or interchangeable parts, and are connected directly to a branch circuit through an American National Standards Institute (ANSI) base and corresponding ANSI standard lampholder (socket). Non-integrated CFLs (also referred to as pin-base) require an external ballast to function, and mainly have pin bases, (*e.g.*, 2-pin or 4-pin). On March 17, 2016, DOE issued a NOPR (March 2016 NOPR) that proposes a new definition for general service lamp that includes both non-integrated CFLs and integrated CFLs. 81 FR 14527. The March 2016 NOPR also proposes minimum efficacy and power factor standards for certain types of general service lamps and additional metrics for

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[1] All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (April 30, 2015).

MBCFLs. On January 6, 2016, DOE issued a final rule (January 2016 final rule) establishing amended energy conservation standards for CFLs, both integrated and non-integrated, packaged with a CFLK. 81 FR 579.

DOE is also adopting these new test procedures to support: (1) The Federal Trade Commission (FTC) labeling requirements for lighting products as specified in 16 CFR 305.15; and (2) the U.S. Environmental Protection Agency's ENERGY STAR program for lamps and luminaires. Under the FTC Lighting Facts labeling requirement, manufacturers are required to include basic and consistent information about certain types of light bulbs (lamps) including information about the lumen output, input power, life, and correlated color temperature (CCT) on the lamp packaging. Regarding ENERGY STAR, DOE's adopted CFL test procedure provides test methods for certain metrics included in the ENERGY STAR specification for lamps[2] and luminaires.[3] The ENERGY STAR lamps specification includes, among others, metrics for initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, rapid cycle stress test, lifetime, CCT, color rendering index (CRI), power factor, and start time. The ENERGY STAR luminaires specification includes, among others, metrics for efficacy, lumen maintenance at 40 percent of lifetime, lifetime, CCT, CRI, power factor, and start time.

Table II.1 summarizes the metrics adopted in this final rule and which agency requires them.

TABLE II.1—CFL METRICS IN DOE REGULATIONS, FTC LABELING REQUIREMENTS, AND THE ENERGY STAR PROGRAM

Metric	DOE proposed or established regulations			FTC labeling requirements	EPA ENERGY STAR program for lamps or luminaires
	MBCFL	GSL	CFLK		
Integrated CFLs					
Efficacy	X	X	X	X	X
CCT	....	—	—	X	X
CRI	....	X	—	—	X
Lumen maintenance at 1,000 hours	X	X	X	—	X
Lumen maintenance at 40% of lifetime	X	X	X	—	X
Lifetime	X	X	X	X	X
Rapid Cycle Stress Test	X	X	X	—	X
Power Factor	....	X	—	—	X
Start Time	....	X	—	—	X
Standby Mode Energy Consumption	....	X	—	—	X
Non-Integrated CFLs					
Efficacy	—	*	X	—	X
CCT	—	—	—	—	X
CRI	—	—	—	—	X
Lumen maintenance at 40% of lifetime	—	—	—	—	X
Lifetime	—	—	—	—	X

* In the March 2016 NOPR, DOE notes that the backstop provision in 6296(i)(6)(A)(v) is automatically triggered. The backstop provision requires all lamps that meet the definition of a general service lamp (which includes many non-integrated compact fluorescent lamps) comply with a minimum efficacy standard of 45 lumens per watt. 81 FR 14528, 14540 (March 17, 2016).

Additionally, DOE establishes a test procedure for CFL standby mode power measurement, as directed by EPCA. However, this test procedure will only apply to integrated CFLs because non-integrated CFLs are not capable of standby mode operation (see section III.A.6).

Finally, DOE also revises the current sampling plan in 10 CFR 429.35. This revised sampling plan is consistent with ENERGY STAR Lamps Specification V2.0, as detailed in section III.H.

III. Discussion

A. Amendments to Appendix W to Subpart B of 10 CFR part 430

1. Updates to Industry Test Methods

DOE's existing MBCFL test procedures contained in appendix W to subpart B of 10 CFR part 430 are based on the August 2001 version of the ENERGY STAR program requirements for CFLs,[4] which has since been updated several times. In the July 2015 NOPR, DOE proposed replacing the existing references to ENERGY STAR program requirements with direct references to the latest versions of the appropriate industry test methods from the IES. DOE explained that directly referencing the latest industry standards would allow DOE to adopt current best practices and technological developments in its test procedures. As a result, DOE proposed to directly incorporate by reference in appendix W the latest versions of the following industry test procedures: IES LM–66–14,[5] IES LM–65–14,[6] and IES LM–54–12.[7] DOE also proposed to no longer incorporate by reference the August 2001 version of the ENERGY STAR Program Requirements for CFLs, previously approved for appendix W.

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[2] *ENERGY STAR® Program Requirements Product Specification for Lamps (Light Bulbs), Eligibility Criteria, Version 2.0.* December 31, 2015. Washington, DC. *https://www.energystar.gov/sites/default/files/ENERGY%20STAR%20Lamps%20V2_0%20Program%20Requirements.pdf.*

[3] *ENERGY STAR® Program Requirements Product Specification for Luminaires (Light Fixtures), Eligibility Criteria, Version 2.0.* May 29, 2015. Washington, DC. *https://www.energystar.gov/sites/default/files/asset/document/Luminaires%20V2%200%20Final.pdf.*

[4] *ENERGY STAR® Program Requirements for CFLs Partner Commitments, Version 2.0,* Washington, DC (Aug. 9, 2001). *www.energystar.gov/ia/partners/product_specs/program_reqs/archive/CFLs_Program_RequirementsV2.0.pdf.*

[5] *IES Approved Method for the Electrical and Photometric Measurements of Single-Based Fluorescent Lamps* (approved December 30, 2014).

[6] *IES Approved Method for Life Testing of Single-Based Fluorescent Lamps* (approved December 30, 2014).

[7] *IES Guide to Lamp Seasoning* (approved October 22, 2012).

DOE compared the currently referenced versions and the new updated versions of the relevant industry standards to determine, as directed by EPCA, whether adopting the latest industry standards would alter measured energy efficiency for MBCFLs as determined under the current DOE test procedure. DOE determined that these changes would have a de minimis effect on measured values.

Both the National Electrical Manufacturers Association (NEMA) and OSRAM SYLVANIA, Inc. (OSI) supported the incorporation by reference of IES LM–66–14 and IES LM–65–14 stating that it would not significantly affect the testing or measured values. (NEMA, No. 9 at pp. 3,8; OSI, No. 5 at pp. 2–3)[8]

DOE received comments regarding the provisions on cycling lamps during seasoning in IES LM–54–12. Under the current test procedure, in accordance with IES LM–54–1991, all lamps are seasoned at a 3 hour on, 20 minute off cycle for 100 operating hours. The latest version of the standard, IES LM–54–12, also specifies that lamps that are to be lifetime tested shall be cycled during seasoning. However, IES LM–54–12 does not specify a specific operating cycle during seasoning for lifetime testing. IES LM–54–12 also states that lamps to be tested for other performance metrics can be continuously burned (not cycled) during seasoning to shorten the time required for seasoning. In the July 2015 NOPR, DOE tentatively determined that not providing a specific operating cycle during seasoning for lifetime testing and not requiring cycling during seasoning for other performance metrics would have a de minimis impact on measured values.

The California Investor Owned Utilities (CA IOUs)[9] and the Energy Efficiency Advocates (EEAs),[10] however, disagreed and recommended that DOE require lamps to be cycled (operated 3 hours and then turned off for 20 minutes) during seasoning as was specified in IES LM–54–1991. (CA IOUs, No. 7 at p. 3; EEAs, No. 8 at p. 4)

DOE continues to find that cycling during seasoning would have a de minimis impact on measured values. However, in this final rule, in order to establish a more consistent test procedure, DOE specifies cycling during seasoning for all metrics. As discussed in section III.H.5, in this final rule, DOE requires that the same set of lamps be used for measurement of initial lamp efficacy, lumen maintenance, lifetime, color measurements, start time, and power factor. Because of this requirement to use the same set of lamps and the specification in IES LM–54–12 that lamps should be cycled during seasoning for lifetime measurements, lamps used in DOE's test procedure must be cycled during seasoning for all other measurements as well. Rapid cycle stress testing is conducted on a unique set of lamps—a separate set of lamps than used for all other metrics. However, DOE requires in this final rule that lamps used for rapid cycle stress testing also be cycled while seasoned and thereby provides a consistent methodology for seasoning across all metrics.

To provide further consistency and specificity in test method, in this final rule, DOE specifies in this test procedure how to cycle lamps. Although section 6.2.2.1 of LM–54–12 states that for lifetime testing, lamps should be cycled during seasoning, IES LM–54–12 does not define the cycling time. IES LM–54–1991 required that all lamps be seasoned at a 3 hour (180 minutes) on, 20 minute off cycle for 100 operating hours. Additionally, section 6.4 of IES LM–65–14 states that the standard life operating cycle shall be 180 minutes on, 20 minutes off. Therefore, in this final rule, DOE specifies in section 3.1.3 of appendix W that lamps must be cycled during seasoning, and the operating cycle must be 180 minutes on, 20 minutes off in accordance with section 6.4 of IES LM–65–14. In this final rule, DOE incorporates by reference IES LM–54–12, and supplements its seasoning requirements with the additional requirements noted in this section.

DOE also received several comments regarding how industry standards incorporated by reference should be cited within the DOE test procedure. Both NEMA and OSI commented that in the NOPR, DOE proposed text copied directly from the referenced industry standards for incorporation into the CFR. NEMA recommended that instead, DOE should incorporate these publications by reference, ensuring that interested parties understand the context. (NEMA, No. 9 at p. 2; OSI, No. 5 at p. 2) Philips Lighting (Philips) expressed concern that when the DOE test procedure deviates from a document incorporated by reference it adds another level of complexity and possibly leads to confusion. (Philips, Public Meeting Transcript, No. 4 at pp. 83–84) As a solution, Philips suggested that DOE provide specific instructions to the testing laboratory like ENERGY STAR and other programs. (Philips, Public Meeting Transcript, No. 4 at p. 68) Westinghouse stated that, although they preferred DOE incorporate by reference the entire document, it was acceptable if only portions can be referenced. Westinghouse stated that it can cause confusion when DOE makes modifications such that something not in the referenced standard is included in the DOE test procedure. In particular, when auditing a test lab, Westinghouse noted that the lab may meet requirements based on the referenced standard but not based on DOE's test procedure. (Westinghouse, Public Meeting Transcript, No. 4 at p. 85)

DOE appreciates the feedback related to incorporation by reference of industry standards as well as ways to improve the clarity of DOE's test procedure. In the NOPR and in this final rule, DOE did not include text in the regulatory language copied directly from an industry standard and instead incorporated by reference relevant industry standards in 10 CFR 430.3 and referenced sections of the incorporated industry standards as relevant in DOE's test procedures. DOE lays out instructions regarding the test setup conditions, test methods, and measurements for each CFL metric in appendix W. In these instructions, DOE references relevant sections of industry standards, and provides further clarification as needed. To generate reliable and consistent results, DOE, in some instances, provides further clarification and/or exceptions to the industry standards referenced. For example, appendix W states that lamps should be seasoned according to sections 4, 5, 6.1, and 6.2.2.1 of IES LM–54–12. To reduce test burden, DOE provides further clarification in appendix W that time during seasoning can be counted toward time to failure and lumen maintenance at 40 percent of lifetime (see section III.A.2.e for further details). IES LM–54–12 states that, for lifetime testing, lamps shall be cycled during seasoning, and for all other performance metrics, lamps can be continuously burned during seasoning.

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[8] DOE identifies comments received in response to the July 2015 CFL TP NOPR on Docket No. EERE–2015–BT–TP–0014 by the commenter, the document number as listed in the docket maintained at *www.regulations.gov,* and the page number of that document where the comment appears (for example: OSI, No. 5 at p. 7). If a comment was made verbally during the August 2015 NOPR public meeting, DOE

[9] The CA IOUs are Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SCG), San Diego Gas and Electric Company (SDG&E), and Southern California Edison (SCE).

[10] The EEAs are the Appliance Standards Awareness Project (ASAP), American Council for an Energy Efficient Economy (ACEEE), Alliance to Save Energy (ASE), Natural Resources Defense Council (NRDC), Northeast Energy Efficiency Partnerships (NEEP), and Northwest Energy Efficiency Alliance (NEEA).

To ensure consistent seasoning requirements across all metrics, DOE requires in this final rule that, for all metrics, including lifetime, lamps must be cycled during seasoning (as noted in this section). Therefore, DOE's test procedure in appendix W is streamlined to provide, at each step, only the relevant sections of industry standards, and any related additional instructions and/or clarifications specific to the DOE test procedure. In summary, DOE finds that the test procedures for CFLs as prescribed in this final rule address the concerns of interested parties to provide clear, unambiguous instruction regarding the appropriate procedures for testing CFLs.

2. Clarifications to General Test Conditions and Setup

a. Instrumentation

In the July 2015 NOPR, DOE proposed that photometric measurements including lumen output, CCT, and CRI be carried out in an integrating sphere. DOE made this proposal because of potential differences in measured values when conducting testing with an integrating sphere versus a goniophotometer and certain issues with the use of goniophotometers. DOE received comments related to its proposal to only allow the use of integrating spheres for photometric measurements. P.R. China noted that although the integrating sphere method is simpler, the goniophotometer measures luminous flux using an absolute method and is therefore more accurate. Specifically, P.R. China argued that the goniophotometer method should be allowed because integrating spheres might lead to errors with large-sized lamps or lamps with special shapes. P.R. China added that additional testing cost and/or burden could be introduced by only allowing the use of integrating spheres. (P.R. China, No. 10 at p. 3) However, NEMA and OSI were supportive of using only an integrating sphere for testing. (NEMA, No. 9 at p. 3; OSI, No. 5 at p. 3)

Both the integrating sphere and goniophotometer methods are allowed in IES LM–66–14. DOE understands that both these methods are valid ways to take photometric measurements. However, DOE is concerned about the potential difference in measured values generated from the two different measurement approaches. Because DOE test procedures must yield repeatable and reproducible results and comparable measured values, DOE determined that it must specify one method of measurement. DOE believes that the integrating sphere method is preferable to the goniophotometer method because of certain issues that make goniophotometer testing more variable and potentially less accurate. The goniophotometer is potentially problematic for lamps that emit light in all directions as the setup may result in a dead angle where some part of the light output is blocked by the equipment (*e.g.*, the arm in which the lamp is held). The goniophotometer method also requires a precise scanning resolution that may differ by lamp and is not subject to a specific industry requirement that could provide consistency across measurements. Integrating spheres can come in a range of sizes and can accordingly be used to test a variety of sizes and shapes of lamps, including linear fluorescent lamps, which are much larger than CFLs. Therefore, DOE is not aware of any constraints or limitations regarding testing CFLs using integrating spheres.

DOE also proposed to incorporate by reference IESNA LM–78–07 in the July 2015 NOPR, which provides more specific guidance on measuring lumen output in an integrated sphere. DOE did not receive any comments related to IESNA LM–78–07.

For these reasons, DOE requires that all photometric measurements, including lumen output, CCT, and CRI, must be carried out using the integrating sphere method. Additionally, to provide a method for measuring lumen output in an integrating sphere, DOE incorporates by reference IESNA LM–78–07.

b. Ambient Temperature

In the July 2015 NOPR, DOE proposed that photometric and electrical testing of CFLs must be conducted at an ambient temperature of 25 ± 1 °C. 80 FR 45731. Section 4.3 of IES LM–66–14 states that the ambient temperature during photometric and electrical testing must be maintained at 25 ± 1 °C unless the CFL is designed to perform optimally under non-standard conditions. Similar requirements and allowance were given in IES LM–66–1991. DOE's review of manufacturer-published product literature suggests that photometric and electrical testing of CFLs is typically conducted at the standard 25 ± 1 °C temperature conditions and possible inconsistencies could arise between represented values if testing occurred at other temperatures.

OSI commented that the ambient temperature requirement of 25 ± 1 °C is acceptable for most lamps, but not for non-integrated lamps specifically designed for high ambient temperature operation. (OSI, No. 5 at p. 3) General Electric (GE) was also supportive of the temperature range for testing for most products, but requested an exclusion for products that are specifically designed for high ambient temperatures. (GE, Public Meeting Transcript, No. 4 at pp. 32–33) NEMA commented that non-integrated lamps specifically designed for high ambient temperature operation should not be tested at 25 °C. (NEMA, No. 9 at p. 3)

DOE understands the concerns of interested parties, but believes that it is important to establish test procedures that provide a consistent set of measurements. That is, DOE believes that adopting a consistent rating condition across all CFL models will make the results more comparable among CFL models.

c. Input Voltage

In the July 2015 NOPR, DOE proposed that if rated input voltage is a range that includes 120 volts (V), the CFL must be operated at 120 V when conducting the DOE test procedures. If the CFL can be operated with multiple rated input voltages and is not rated for 120 V, the CFL must be operated at the highest rated input voltage. DOE determined that requiring testing at a single input voltage would limit testing variation and ensure more accurate and consistent measurements of time to failure (see sections III.A.3.a and III.A.4.b). In addition, section 5.1.1 of IES LM–65–14 specifies that when the rated input voltage of a lamp or ballast is a range, a nominal value should be selected for lifetime testing and reported as a test condition. 80 FR 45732. NEMA supported DOE's proposal regarding testing input voltage. (NEMA, No. 9 at p. 3) DOE received no other comments regarding input voltage. In this final rule, DOE adopts a testing voltage requirement that if a rated input voltage is a range that includes 120 V, the CFL must be operated at 120 V. If the CFL with multiple rated input voltages is not rated for 120 V, the CFL must be operated at the highest rated input voltage.

d. Lamp Orientation

In the July 2015 NOPR, DOE proposed a clarification that lamp orientation must be maintained throughout all testing, including preparation (*e.g.*, seasoning and preburning), storage, and handling between tests. The intent of DOE's proposal was to minimize changes in lamp operating characteristics between various stages of testing and allow for more accurate and repeatable measurements. 80 FR 45732. NEMA supported DOE's proposal of maintaining lamp orientation. (NEMA, No. 9 at p. 3) DOE received no other comments regarding lamp orientation.

In this final rule, DOE adopts a requirement that lamp orientation must be maintained throughout all testing, including preparation (*e.g.,* seasoning and preburning), storage, and handling between tests.

e. Lamp Seasoning

In the July 2015 NOPR, DOE proposed that the seasoning requirements in IES LM–54–12 must be followed prior to the testing of all CFLs. DOE also proposed two additional provisions related to lamp seasoning. First, DOE proposed that unit operating time during seasoning may be counted toward lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, and time to failure if the required operating cycle and test conditions are satisfied as stated in the test method for time to failure. This would reduce testing burden by minimizing the overall testing time required for measuring time to failure and lumen maintenance values. Second, DOE proposed to require that, if a lamp breaks, becomes defective, fails to stabilize, exhibits abnormal behavior such as swirling prior to the end of the seasoning period, or stops producing light, the lamp must be replaced with a new unit. 80 FR 45732.

NEMA was supportive of the proposed seasoning requirements. (NEMA, No. 9 at p. 3) DOE received several comments regarding its proposal that a lamp that fails during seasoning should not be included in the sample set to determine the represented value of metrics. DOE addresses these comments in section III.H.6.

In this final rule, DOE adopts the clarifications regarding seasoning as noted in this section. As previously stated in section III.A.1, to provide consistency in test methodology, DOE also requires in this final rule that lamps must be cycled during seasoning for all measurements and specifies an operating cycle of 180 minutes on and 20 minutes off in accordance with section 6.4 of IES LM–65–14.

f. Lamp Stabilization

In the July 2015 NOPR, DOE proposed to disallow the "peak" method provided in Annex B of IES LM–66–14, which can serve as a time saving alternative to the stabilization method specified in section 6.2.1 of IES LM–66–14. IES LM–66–14 states that the information in the Annex is not intended to be a recommended procedure, but is presented as reference information; it also notes that the stabilization method specified in section 6.2.1 is preferred because considerable testing and experience with a given lamp design may be required due to the number of lamp designs and process variations that exist when conducting the peak according to Annex B. Because of the variabilities that could arise from testing using the peak method, DOE concluded that the peak method could cause inconsistent and potentially inaccurate results. 80 FR 45732.

NEMA supported DOE's proposal. (NEMA, No. 9 at p. 3) DOE received no other comments regarding the "peak" method for stabilization. In this final rule, DOE disallows the "peak" method provided for reference in Annex B of IES LM–66–14.

g. Simulated Fixtures During Time to Failure Testing

In the July 2015 NOPR, DOE proposed not to allow the use of simulated fixtures during time to failure testing of CFLs. This proposal would remove potential variation in the testing of CFLs and ensure that all CFLs are tested in a consistent manner. 80 FR 45732.

NEMA supported this proposal. (NEMA, No. 9 at p. 3) DOE received no other comments regarding testing of lamps in fixtures. In this final rule, DOE disallows the use of simulated fixtures during time to failure testing of CFLs.

h. Ballasted Adapters

In the July 2015 NOPR, DOE proposed that CFLs packaged with or designed exclusively for use with ballasted adapters must be tested as non-integrated CFLs, without the inclusion of the ballasted adapter. DOE proposed to define a "ballasted adapter" as a ballast that is not permanently attached to a CFL, has no consumer-replaceable components, and serves as an adapter by incorporating both a lamp socket and a lamp base. 80 FR 45732.

NEMA agreed with the proposed term "ballasted adapter." (NEMA, No. 9 at p. 3) DOE received no other comments regarding the definition for "ballast adapter." In this final rule, DOE adopts the proposed definition for the term "ballasted adapter."

DOE also received comments related to the inclusion of screw-base ballasted adapters for non-integrated CFLs. NEMA, OSI, and Philips stated that screw-base ballasted adapters for non-integrated CFLs should not be part of the CFL test procedure, but rather addressed in the fluorescent lamp ballast (FLB) rulemaking.[11] (NEMA, No. 9 at p. 2; OSI, No. 5 at p. 2; Philips, No. 6 at p. 3) DOE notes that it is not proposing a test procedure for ballasted adapters in this rulemaking, only a test procedure for compact fluorescent lamps.

Philips disagreed with DOE's proposal that CFLs, packaged with or designed exclusively for use with ballasted adapters, must be tested as non-integrated CFLs, without the inclusion of the ballasted adapter. Instead, Philips recommended that a ballasted adapter sold with a lamp should be tested as a system and the system should be subject to the same energy conservation standards as integrated lamps. (Philips, No. 6 at p. 3)

DOE requires that non-integrated CFLs be tested on reference ballasts as specified in IES LM–66–14. This ensures consistent test conditions for measuring the performance characteristics of non-integrated CFLs that are externally ballasted. As noted in this preamble, DOE defines ballasted adapter as a component that is not permanently attached to the CFL, and therefore is similar to the external ballasts used with non-integrated CFLs. DOE reviewed CFLs that are compatible with ballasted adapters and determined that there was no technical reason they could not be tested on a reference ballast. Further, although the CFL may be packaged with a certain ballasted adapter, a consumer could choose to replace it with a different ballasted adapter or a manufacturer could pair the same lamp with different ballasted adapters. Thus, use of a reference ballast allows for a consistent and comparable assessment of the lamp's performance. Therefore, DOE continues to require that CFLs packaged with or designed exclusively for use with ballasted adapters be tested as non-integrated CFLs.

i. Multi-Level CFLs and Dimmable CFLs

Footnote 2 to the energy conservation standards for MBCFLs codified at 10 CFR 430.32(u) includes the statement that for multi-level or dimmable systems, measurements shall be at the highest setting. In the July 2015 NOPR, DOE proposed to remove the footnote in order to consolidate testing requirements in the test procedure and add language to the test procedure addressing dimmable CFLs in the general instruction section of appendix W. The lumen output level and input power can be adjusted for some CFLs (*i.e.,* dimmable), and thus not clarifying the input power for testing these lamps can introduce testing variation. Therefore, to ensure consistent results, DOE proposed that a dimmer not be used in the circuit and that all CFLs be tested at the labeled wattage, which DOE defines as the highest wattage marked on the lamp and/or lamp packaging (see section III.A.3.f for further details on the labeled wattage). 80 FR 45732–4573.

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[11] Information regarding the Fluorescent Lamps Ballast Rulemaking can be found at *http://www.regulations.gov/docket?D=EERE–2015–BT–STD–0006.*

NEMA and OSI agreed that testing should be conducted with no dimmer in the circuit, but the CA IOUs proposed testing dimmable CFLs at dimmed states in addition to full power. (NEMA, No. 9 at p. 4; OSI, No. 5 at p. 3; CA IOUs, No. 7 at p. 4) However, neither the current energy conservation standards nor those proposed in the March 2016 NOPR require measurements of performance of CFLs at dimmed levels. Therefore, DOE is not establishing test procedures for CFLs to be tested at such levels.

Both NEMA and OSI commented that CFL testing should be conducted at labeled voltage (which is an independent variable), rather than at labeled wattage (which is a dependent variable). (NEMA, No. 9 at pp. 3–4; OSI, No. 5 at p. 3) DOE agrees that wattage is dependent on voltage and understands that, during testing, the electrical characteristics of the incoming power to the lamp would be adjusted to achieve a given wattage. Because voltage and wattage are related quantities, DOE notes that specifying either the voltage or wattage will achieve the same result when testing a given lamp. DOE's specification that the lamp be tested at the labeled wattage is intended to indicate that CFLs specified for a range of wattages should be measured at the highest wattage marked on the lamp. This is consistent with the existing test specifications for CFL testing and DOE's proposed definition of "labeled wattage," as discussed in section III.A.3.f.

In this final rule, DOE removes the text regarding multi-level or dimmable systems from § 430.32(u) and, instead, specifies in appendix W that dimmable CFLs must be tested at their highest labeled wattage. DOE believes specifying that a dimmer cannot be used in the circuit is an unnecessary addition as DOE also specifies that dimmable CFLs must be tested at their highest labeled wattage. DOE therefore removes this direction in the final rule.

3. Clarifications to Definitions

a. Average Rated Life

In the July 2015 NOPR, DOE proposed to remove the term "average rated life" and adopt the terms "lifetime of a compact fluorescent lamp" and "time to failure." The existing definition of "average rated life" makes only general reference to the sample size for time to failure testing. DOE believes the use of the word "average" in the term "average rated life" may be confusing, and although defined in appendix W, the term is not otherwise used in appendix W or in specifications of existing MBCFL energy conservation standards. Further, the term "rated life" is used as a descriptor in appendix W, but is not defined. Therefore, DOE proposed to remove the term "average rated life" from appendix W and to add the definition "lifetime of a compact fluorescent lamp" at 10 CFR 430.2. 80 FR 45733. See section III.B.3 for more detail.

In the July 2015 NOPR, DOE also proposed to define "time to failure" in appendix W to support the new definition of "lifetime of a compact fluorescent lamp" specified in 10 CFR 430.2. "Time to failure" in the context of CFLs is the time elapsed between first use and the point at which the lamp fully extinguishes and no longer creates light. 80 FR 45733.This definition aligns with the definition of lamp failure in section 8.2 of ANSI/IES RP–16–14.[12]

The EEAs were supportive of DOE's proposed changes related to lifetime, but recommended that the definition of "time to failure" be the point at which the lumen output falls below 70 percent of initial lumen output. The EEAs stated that 70 percent is a common threshold within the lighting industry and addresses a situation where the CFL starts, but does not provide sufficient light. (EEAs, No. 8 at p. 1)

DOE is only aware of 70 percent initial lumen output to characterize lifetime of light-emitting diode (LED) lamps. This determination is based on the understanding that the LED lamp has reached the end of its useful life when it achieves a lumen maintenance of 70 percent. In the June 3, 2014 supplemental notice of proposed rulemaking (SNOPR), DOE concluded that there is no industry consensus for how to characterize lifetime of LED lamps in terms of performance metrics other than lumen maintenance. However, for other lighting technologies, such as CFLs, industry standards define lamp lifetime as the time at which 50 percent of tested samples stop producing light. 79 FR 32020, 32028. Therefore, in this final rule, DOE defines "time to failure" as the time elapsed between first use and the point at which the CFL ceases to produce measureable lumen output.

As noted in section III.A.1, DOE references IES LM–65–14 for lifetime testing of CFLs. Section 3.0 of IES LM–65–14 specifies the terms "lamp failure," "lamp life," and "rated lamp life." However, DOE is specifically defining the terms, "time to failure" and "lifetime of a compact fluorescent lamp" (see section III.B.3) to support its lifetime testing of CFLs and align with terminology used in other DOE lamp test procedures. Although the definitions in section 3.0 of IES LM–65–14 are often analogous to DOE's adopted definitions for time to failure and lifetime of a compact fluorescent lamp, to avoid confusion regarding terminology when executing the lifetime test procedure for CFLs, DOE proposed that section 3.0 of IES LM–65–14 should be disregarded and replaced with the DOE definitions used for lifetime testing of CFLs. DOE did not receive any comments regarding this proposal and adopts it in this final rule.

b. Initial Performance Values

DOE proposed in the July 2015 NOPR to (1) delete the term "initial performance values;" (2) add a definition for the term "initial lamp efficacy;" (3) add a definition for the term "measured initial input power;" (4) delete the term "rated luminous flux or rated lumen output;" and (5) add a definition for the term "measured initial lumen output." 80 FR 45733–45734. The new terms clarify the measurement of CFL initial performance values, and eliminate the need for the terms "initial performance values" and "rated luminous flux or rated lumen output." DOE did not receive any comments related to deletion or addition of these terms. Therefore, in this final rule, DOE removes the terms "initial performance values" and "rated luminous flux or rated lumen output," and adopts definitions for "initial lamp efficacy," "measured initial input power," and "measured initial lumen output."

c. Lumen Maintenance

In the July 2015NOPR, DOE proposed to amend the definition of "lumen maintenance" to clarify that calculated lumen maintenance values are based on measured lumen output as the existing definition of "lumen maintenance" does not clearly distinguish between rated and measured values. The DOE proposed to adopt the term "lumen maintenance" in appendix W as the lumen output measured at a given time in the life of the lamp and expressed as a percentage of the measured initial lumen output. 80 FR 45734.

NEMA agreed with this clarification. (NEMA, No. 9 at p. 5) DOE did not receive any other comments on the term "lumen maintenance." In this final rule, DOE adopts the term "lumen maintenance" and definition as proposed in the July 2015 NOPR.

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[12] *Nomenclature and Definitions for Illuminating Engineering* (approved 2010).

d. Rated Voltage

In appendix W, the term "rated voltage" is defined as meaning the voltage marked on the lamp. As previously noted, in this final rule, DOE requires measurement at the highest rated input voltage for lamps rated at multiple input voltages not including 120 V (see section III.A.2.c). In order to support this test condition, in this final rule, DOE adds clarifying text to the definition of "rated voltage." Specifically, in this final rule, DOE replaces the term "rated voltage" with "rated input voltage," defined as the voltage(s) marked on the lamp as the intended operating voltage, or if not marked on the lamp, 120 V.

e. Rated Supply Frequency

In the July 2015 NOPR, DOE proposed to remove from appendix W the term "rated supply frequency" because appendix W does not use this term. 80 FR 45734.

NEMA agreed with removing this term. (NEMA, No. 9 at p. 4) DOE did not receive any other comments on removing "rated supply frequency." In this final rule, DOE removes the term "rated supply frequency" from appendix W.

f. Rated Wattage

In the July 2015 NOPR, DOE proposed to change the term "rated wattage" to "labeled wattage" and amend the definition to clarify its applicability to multi-level (*i.e.,* multi-power) and dimmable CFLs. 80 FR 45734. Currently, in appendix W "rated wattage" is defined as the wattage marked on the lamp. The term is intended to denote the wattage marked on the lamp that should be used to determine the applicable minimum efficacy requirement for existing MBCFL energy conservation standards as specified in 10 CFR 430.32(u). However, in ANSI standards, the rated wattage is a targeted rather than actual value and can sometimes differ from the value displayed on the lamp packaging.

NEMA and OSI recommended DOE not remove the term "rated wattage," which they stated is widely used and understood by the lighting industry, and instead suggested adding the term "ANSI rated wattage" to differentiate the ANSI-based wattages. (NEMA, No. 9 at p. 5; OSI, No. 5 at p. 4)

Although DOE understands that "rated wattage" is a commonly used term in the lighting industry, DOE also notes that its meaning may differ depending on the context in which it is used (*i.e.,* referring to wattages referenced in ANSI standards as opposed to the wattage listed on the CFL). Using the term "labeled wattage" will avoid any potential confusion when applying DOE's test procedures and align with the definition of the term, which specifies it as the wattage marked on the lamp. Therefore, in this final rule, DOE removes "rated wattage" and defines "labeled wattage" as the highest wattage marked on the lamp and/or lamp packaging.

g. Self-Ballasted Compact Fluorescent Lamp

The term "self-ballasted compact fluorescent lamp," as defined in appendix W, means a CFL unit that incorporates, permanently enclosed, all elements that are necessary for the starting and stable operation of the lamp, and does not include any replaceable or interchangeable parts. The terms self-ballasted CFL, integrally ballasted CFL, and integrated CFL are used interchangeably in industry to identify a CFL that contains all components necessary for the starting and stable operation of the lamp, does not include any replaceable or interchangeable parts, and is connected directly to a branch circuit through an ANSI base and corresponding ANSI standard lamp-holder (socket). Because DOE proposed to include test procedures for additional categories of CFLs, including integrated and non-integrated CFLs, in the July 2015 NOPR, DOE also proposed to define the mutually exclusive terms "integrated CFL" and "non-integrated CFL" to clearly differentiate the applicability of the relevant CFL test procedures and energy conservation standards. Specifically, DOE proposed to remove the definition of "self-ballasted compact fluorescent lamp" and add a new definition for the term "integrated compact fluorescent lamp" as an integrally ballasted CFL that contains all components necessary for the starting and stable operation of the lamp, does not include any replaceable or interchangeable parts, and is connected directly to a branch circuit through an ANSI base and corresponding ANSI standard lamp-holder (socket). DOE also proposed to add a definition of "non-integrated compact fluorescent lamp" as "a compact fluorescent lamp that is not integrated." 80 FR 45734.

OSI and NEMA stated that the proposed definition for "non-integrated" was unnecessarily broad and encompassed all CFLs that are not integrated CFLs. OSI and NEMA instead suggested DOE incorporate the following ANSI C78.901–2014 definition for non-integrated CFLs: a CFL that has an ANSI pin base, does not incorporate a ballast, and appears in ANSI C78.901–2014. (OSI, No. 5 at p. 5; NEMA, No. 9 at p. 5) Additionally, during the public meeting held to discuss the July 2015 NOPR, OSI asked why the term "integrated" was chosen as opposed to "self-ballasted." OSI also inquired about the use of the term "pin based" in the context of "non-integrated." (OSI, Public Meeting Transcript, No. 4 at pp. 53–54) Philips responded that UL 1993 [13] uses the term "self-ballasted lamp" and acknowledged that the IES struggled with the terms when developing IES LM–65–14 and IES LM–66–14, but ultimately both documents use the terms integrated and non-integrated when appropriate. (Philips, Public Meeting Transcript, No. 4 at pp. 53–55)

The term "integrated" can be used across lamp technologies to describe lamps that contain all the necessary components for operation, and thereby provides consistency across DOE test procedures for lamps. The term supports the March 2016 NOPR and the amended standards for CFLKs, both of which apply to lamps that use ballasts as well as drivers. Further, because this test procedure applies to all CFLs, it is DOE's intent to set forth terminology that includes all CFL types. Based on its review of products, DOE determined that a CFL is either "integrated" or "non-integrated" and intentionally defined the terms to be mutually exclusive (*i.e.,* a CFL can be either integrated or non-integrated, but not both) and inclusive of all CFLs. Therefore, DOE defines "non-integrated compact fluorescent lamp" to include any CFL that does not meet the definition "integrated compact fluorescent lamp" and does not limit this definition by base type or inclusion in industry standard. Hence, in this final rule, DOE removes the definition of "self-ballasted compact fluorescent lamp" and adds new definitions for "integrated compact fluorescent lamp" and "non-integrated compact fluorescent lamp."

4. Test Procedures for Existing and New Metrics

a. Test Procedures for Initial Lamp Efficacy, Lumen Maintenance, CCT, CRI, and Power Factor

In the July 2015 NOPR, DOE proposed to continue to include test procedures for measuring initial lamp efficacy and lumen maintenance and add test procedures for measuring CCT, CRI, and power factor in appendix W. DOE proposed that the test procedures for initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, CCT, and CRI would apply to both integrated and non-integrated lamps, although the test procedure for power factor would only apply to integrated lamps. 80 FR 45735. The following sections discuss these metrics and the related comments received.

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[13] UL. UL1993, "Self-Ballasted Lamps and Lamp Adapters," *http://ulstandards.ul.com/standard/?id=1993_4*

Initial Lamp Efficacy and Lumen Maintenance

Although appendix W currently specifies a test procedure for initial lamp efficacy and lumen maintenance, it does not explicitly state how to measure and calculate initial lamp efficacy and lumen maintenance values. In order to standardize the CFL test procedure and the calculation of these values, DOE proposed that initial lamp efficacy be determined as the measured initial lumen output divided by the measured initial input power. DOE further proposed to reference IES LM–66–14 for test conditions and setup to measure initial lamp efficacy, lumen maintenance at 1,000 hours, and lumen maintenance at 40 percent of lifetime. *80 FR 45735.* DOE did not receive any comments regarding its proposals for initial lamp efficacy and therefore, in this final rule, adopts them as described in the July 2015 NOPR.

Similarly, in the July 2015 NOPR, DOE proposed to calculate lumen maintenance at 1,000 hours as measured lumen output at 1,000 hours divided by the measured initial lumen output and to calculate lumen maintenance at 40 percent of lifetime as the measured lumen output at 40 percent of lifetime of a compact fluorescent lamp divided by the measured initial lumen output. 80 FR 45735.

DOE evaluated its existing energy conservation standards and ongoing standards rulemakings for CFLs as well as FTC Lighting Facts labeling and determined that a lumen maintenance at 1,000 hours metric is not required for non-integrated CFLs. Therefore, in this final rule, DOE is only adopting a test procedure for lumen maintenance at 1,000 hours for integrated CFLs.

GE and Philips commented during the public meeting for the July 2015 NOPR that logistical testing issues arise if the definition of lifetime is changed to a measured quantity. GE and Philips postulated that they could not measure lumen maintenance at 40 percent of measured lifetime because the point at which lifetime is determined would be later than the 40 percent of the lifetime measurement point. (GE, Public Meeting Transcript, No, 4 at pp. 44–47; Philips, Public Meeting Transcript, No. 4 at pp. 21–22) Both NEMA and OSI proposed measuring lumen maintenance at 40 percent of a rated lifetime rather than the lifetime measured as proposed by DOE. (NEMA, No 9 at pp. 4–5; OSI, No 5 at p. 4)

DOE acknowledges the logistical concerns about measuring lumen maintenance at 40 percent of the lifetime of a CFL. In this final rule, DOE is adopting that lumen maintenance at 40 percent of lifetime can be an estimated value for initial certification of new basic models or existing basic models when retesting is required until lifetime testing is complete. As described in section 10 CFR 429.35(b), certification reports must be submitted for CFLs and represented values of lifetime, lumen maintenance at 40 percent of lifetime, life, and rapid cycle stress test surviving units are estimated values until testing is complete. Upon completion of lifetime testing, the next annual certification report must include final values for these metrics based on the actual represented value for lifetime. In this way, the time required to test for lifetime, lumen maintenance at 40 percent of lifetime, life, and rapid cycle stress will not delay the distribution in commerce of a lamp. (See section III.G for further details on certification reports.)

Although DOE is adopting test methods for lumen maintenance at 40 percent of lifetime for both integrated and non-integrated CFLs, DOE notes that standards for lumen maintenance at 40 percent of lifetime are only applicable for integrated CFLs, specifically MBCFLs. Lumen maintenance at 40 percent of lifetime for non-integrated CFLs is only required to the extent that manufacturers wish to make representations regarding the lumen maintenance of their products or participate in the voluntary ENERGY STAR program.

Correlated Color Temperature (CCT)

In the July 2015 NOPR, DOE proposed to establish a test procedure for measuring CCT in appendix W. The term "correlated color temperature" is defined in 10 CFR 430.2 as the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source. DOE proposed adding the abbreviation "CCT" to this definition as explained in section III.B.2. DOE further proposed that CCT be measured and calculated in accordance with IES LM–66–14, which references Commission Internationale de l'Eclariage (CIE) 15:2004 (3rd edition), "Colorimetry." 80 FR 45735. CIE 15:2004 was previously incorporated by reference in a test procedure final rule published on July 6, 2009 for general service fluorescent lamps, incandescent reflector lamps (IRLs), and general service incandescent lamps (GSIL) for appendix R (hereafter "2009 GSFL, IRL, and GSIL Test Procedure"). 74 FR 31829, 31834.

Both the CA IOUs and the EEAs supported the proposed methodology to measure CCT. (CA IOUs, No. 7. at pp. 3–4; EEAs, No. 8 at p. 4) Likewise, NEMA had no issues with the proposed test procedure, but noted that the proposed methodology would add measurements to the existing requirements. (NEMA, No. 9 at p. 6) OSI added that the additional measurements would have no regulatory benefit. (OSI, No. 5 at p. 5) Although DOE agrees with commenters that DOE has not set standards or requirements regarding the CCT of CFLs, as noted previously, this test procedure supports the FTC Lighting Facts labeling requirements for lighting products, the ENERGY STAR Lamps Specification V2.0 and the ENERGY STAR Luminaires Specification V2.0, all of which require the CCT metric. Therefore, in this final rule, DOE adopts the test procedure for CCT and incorporates CIE 15:2004 by reference for appendix W as proposed in the July 2015 NOPR.

Color Rendering Index (CRI)

In the July 2015 NOPR, DOE proposed establishing a test procedure for measuring CRI in appendix W. DOE proposed that CRI must be measured and calculated in accordance with IES LM–66–14, which references CIE 13.3–1995, "Method of Measuring and Specifying Colour Rendering Properties of Light Sources." DOE also proposed to incorporate CIE 13.3–1995 by reference for appendix W. 80 FR 45735. CIE 13.3–1995 was previously incorporated by reference for appendix R in the 2009 GSFL, IRL, and GSIL Test Procedure.

The CA IOUs and EEAs supported the proposed test procedure for CRI. (CA IOUs, No. 7 at pp. 3–4; EEAs, No. 8 at p. 4) NEMA and OSI expressed the view that a CRI test method would have no regulatory benefit and should not be included in the test method but agreed the proposed methodology was appropriate for measuring CRI. (NEMA, No. 9 at p. 6; OSI, No. 5 at p. 5) Philips commented that CRI should be excluded from the test procedure, as the metric would not yield substantial energy savings. (Philips, No. 6 at p. 3)

The EEAs proposed testing color under the new IES metric outlined in IES TM–30–2015, IES Method for Evaluating Light Source Color Rendition. (EEAs, No. 8 at p. 4) IES TM–

30–2015 is a new methodology for evaluating different color properties than CRI.[14] CRI is determined by comparing a specific set of eight color samples and calculating the average term known as R_a. In contrast, IES TM–30–2015 provides calculations and directions for quantifying fidelity (R_f, which is the closeness to a reference) and gamut (R_g, which is the increase or decrease in chroma).

DOE must specify test procedures in order to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s)) In the March 2016 NOPR, DOE proposed that MBCFLs have a CRI of at least 80. 81 FR 14554. Additionally, ENERGY STAR Lamps Specification V2.0 and Luminaire Specification V2.0 include a CRI requirement. Therefore, in this final rule, DOE establishes a test procedure for CRI and incorporates CIE 13.3–1995 by reference for appendix W. As there are no existing standards for IES TM–30–2015 color metrics for CFLs, nor were any proposed in the March 2016 NOPR, DOE is not adopting test procedures to evaluate color metrics specified in IES TM–30–2015 in this final rule.

In this final rule, DOE is adopting test methods for determining CRI for both integrated and non-integrated CFLs. While DOE is only adopting certification requirements for integrated CFLs when complying with general service lamps standards, if adopted, DOE's test procedure for CRI is applicable to all CFLs and must be used when making representations. (As proposed in the March 2016 NOPR, 81 FR 14554) More specifically, if a manufacturer of a non-integrated CFL decides to make representations of CRI in its product literature, manufacturer catalogues, labeling, or for voluntary energy-efficiency programs, the manufacturer must use the DOE test procedure, including sampling plan.

Power Factor

In the July 2015 NOPR, DOE proposed a test procedure for measuring power factor for integrated CFLs based on electrical measurements conducted in accordance with section 5.0 of IES LM–66–14. DOE also proposed to define power factor in appendix W as the measured root square mean (RMS) input power (watts) divided by the product of the measured RMS input voltage (volts) and the measured RMS input current (amps). 80 FR 45735. DOE did not receive comments on the proposed definition. In this final rule, DOE has modified the definition slightly to align with the definition in ENERGY STAR. Therefore, DOE adopts the following definition of power factor: *power factor* means the measured input power (watts) divided by the product of the measured RMS input voltage (volts) and the measured RMS input current (amps).

The CA IOUs and EEAs commented that they were supportive of the requirement of testing power factor as well as the proposed approach. (CA IOUs, No. 7 at pp. 4; EEAs, No. 8 at pp. 3–4) GE, Philips, NEMA, and OSI commented that power factor should be excluded from the test procedure, with Philips stating that the metric would not yield substantial energy savings, and NEMA and OSI stating that it would have no regulatory benefit. (GE, Public Meeting Transcript, No. 4 at pp. 140–142; OSI, No. 5 at p. 5; Philips, No. 6 at p. 3)

In the March 2016 NOPR, DOE proposed setting a minimum power factor standard for MBCFLs. 81 FR 14528, 14554–14555 (March 17, 2016). DOE notes that ENERGY STAR Lamps Specification V2.0 also includes a power factor requirement. As power factor is required to demonstrate compliance with the proposed GSL energy conservation standards and to support the ENERGY STAR requirements, in this final rule, DOE is establishing a test procedure for power factor.

GE, NEMA, OSI, and Philips commented that power factor is not relevant to non-integrated CFLs because it is a metric specific to the ballast. (GE, Public Meeting Transcript, No. 4 at pp. 140–142; NEMA, No. 9 at p. 6; OSI, No. 5 at p. 5; Philips, No. 6 at p. 3) In response, DOE clarifies that the power factor test procedure is only applicable to integrated CFLs.

DOE also received a comment from the CA IOUs recommending that DOE consider requiring the measurement and reporting of total harmonic distortion of current (abbreviated as THD in the comment). (CA IOUs, No. 5 at p. 4) In the March 2016 NOPR, DOE stated that THD is directly related to power factor and a power factor requirement will effectively establish a standard for THD. 81 FR 14555–14556. Therefore, DOE is not adopting a test procedure for total harmonic distortion of current in this final rule.

b. Test Procedures for Time to Failure

In the July 2015 NOPR, DOE proposed test procedures for measuring time to failure in appendix W for integrated and non-integrated CFLs. 80 FR 45735. DOE determined that test conditions, setup, and measurement of time to failure should be as specified in IES LM–65–14. DOE also proposed that use of simulated fixtures during time to failure testing of CFLs not be allowed. This proposed provision was to prevent potential variation in testing of CFLs and to ensure that all CFLs are tested in a consistent manner. 80 FR 45732. NEMA agreed with DOE's proposal to disallow the use of simulated fixtures during time to failure testing. (NEMA, No. 9 at p. 3)

OSI requested that DOE not include lifetime testing for pin base CFLs in the test procedure, noting that initial lamp efficacy is sufficient for reporting metrics of these lamp types. (OSI, No. 5 at p. 2) NEMA agreed with OSI that DOE should not include lifetime testing for pin base CFLs. NEMA also stated that lifetime testing would depend on the ballast operating the non-integrated CFL. (NEMA, No. 9 at pp. 2, 6)

DOE agrees with NEMA that the specific ballast used affects the lifetime of non-integrated CFLs; however, the characteristics of the lamp also affect this metric. Further, manufacturer catalogs specify the lifetime of non-integrated CFL products and lifetime is also required by ENERGY STAR Luminaires Specification V2.0. Therefore, DOE finds that lifetime is an important characteristic of the performance of the non-integrated CFL. Additionally, by using reference ballasts when testing non-integrated CFLs, DOE is able to assess the performance of the non-integrated CFL in a comparable and standardized way across all non-integrated lamps. In this final rule, DOE adopts the proposed test procedures for time to failure for integrated and non-integrated CFLs to be used to determine lifetime.

c. Test Procedure for Rapid Cycle Stress Test

In the July 2015 NOPR, DOE proposed test procedures for conducting rapid cycle stress testing for integrated and non-integrated CFLs. DOE proposed that test conditions, setup, and rapid cycle stress testing be as specified in IES LM–65–14, but retained the existing operating cycle for rapid cycle stress testing (*i.e.*, CFLs must be cycled continuously with each cycle consisting of one 5-minute on period followed by one 5-minute off period). 80 FR 45735. DOE did not propose any modifications to the rapid cycle stress test itself, but did propose modifications to rounding requirements (see section III.A.7), removal of test procedure language from the energy conservation standard requirements (see section III.F.4), and modifications to sample size (see section III.H.2) for this test.

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[14] IES Method for Evaluating Light Source Color Rendition. *https://www.ies.org/store/product/ies-method-for-evaluating-light-source-color-rendition-3368.cfm.*

DOE received comments that rapid cycle stress testing should not be applied to non-integrated CFLs. GE commented that rapid cycle stress testing should not apply to non-integrated CFLs because it is dependent on the ballast paired with the lamp. (GE, Public Meeting Transcript, No. 4 at pp. 140–142) OSI added that rapid cycle stress testing was designed to stress the ballast and not applicable to non-integrated CFLs. (OSI, No. 5 at pp. 2, 5) NEMA supported the test procedure for rapid cycle stress testing with the clarification that the test procedure should not apply to non-integrated CFLs. (NEMA, No. 9 at p. 6) Philips also stated that non-integrated CFLs be excluded from rapid cycle stress test and questioned the energy savings aspects related to measuring rapid cycle stress test. (Philips, No. 6 at p. 3)

In light of the comments received from interested parties, DOE evaluated its existing energy conservation standards and ongoing standards rulemakings as well as FTC Lighting Facts labeling and ENERGY STAR specifications and determined that rapid cycle stress testing of non-integrated CFLs is not required by any of these regulatory and non-regulatory programs. Therefore, DOE is not adopting a test procedure for rapid cycle stress testing of non-integrated CFLs. DOE notes, however, that the existing standards for MBCFLs, the proposed standards in the March 2016 NOPR, and the ENERGY STAR Lamps Specification V2.0 all contain a requirement for rapid cycle stress testing for MBCFLs. Therefore, DOE retains the test procedure for rapid cycle stress testing for integrated CFLs.

d. Test Procedure for Start Time

In the July 2015 NOPR, DOE proposed a test procedure for measuring start time for integrated CFLs. In support of the proposed start time test method, DOE defined the terms "start time," "start plateau," and "percent variability." DOE also proposed that the lamp be seasoned, stored at a certain temperature, and tested according to a certain operating procedure following the seasoning. 80 FR 45735–45736.

DOE received comments regarding the applicability of the start time metric. NEMA, OSI, and Philips stated that start time is not related to energy efficiency and should not be part of the test procedure. (NEMA, No. 9 at pp. 6,8; OSI, No. 5 at p. 5; Philips, No. 6 at p. 3) NEMA and OSI stated that DOE should abandon the effort to create a test procedure for start time. (NEMA, No. 9 at p. 6; OSI, No. 5 at p. 5) GE, NEMA, Philips, and OSI stated that start time is not applicable to non-integrated CFLs. (GE, Public Meeting Transcript, No. 4 at pp. 140–142; NEMA, No. 9 at p. 8; OSI, No. 5 at pp. 2,7; Philips, No. 6 at p. 3)

In the March 2016 NOPR, DOE proposed a requirement for start time for MBCFLs that the lamp must remain continuously illuminated within one second of application of electrical power. 81 FR 14528, 14555 (March 17, 2016). ENERGY STAR Lamps Specification V2.0 includes a requirement for start time. DOE notes that because the ongoing GSL rulemaking considered a start time metric for only integrated CFLs, the July 2015 NOPR proposed measuring start time for only integrated CFLs. 80 FR 45736. In this final rule, DOE continues to specify that only integrated lamps must be tested for start time.

DOE received several comments regarding the proposed definitions and test procedures for start time. The CA IOUs agreed with the proposed methods for start time outlined in the July 2015 NOPR. (CA IOUs, No. 7 at pp. 3–4) The EEAs stated that they supported DOE's test procedures for start plateau, percent variability, and start time as long as they are fully consistent with the ENERGY STAR test procedure for start time. (EEAs, No. 8 at p. 4)

If DOE were to require measuring and reporting start time, OSI suggested using the ENERGY STAR procedure, which it stated is well understood. (OSI, No. 5 at p. 5) NEMA noted that although the ENERGY STAR test procedure for start time is well understood, it should not be required for lamps that are not ENERGY STAR certified. (NEMA, No. 9 at p. 6) Both Philips and Westinghouse commented that DOE's proposed start time procedure seemed overly complicated, and requested that DOE harmonize with or simply adopt the ENERGY STAR test procedure. (Philips, Public Meeting Transcript, No. 4 at p. 65; Westinghouse, Public Meeting Transcript, No. 4 at pp. 66–67)

When developing the start time test procedure, DOE reviewed the August 2013 "ENERGY STAR Program Requirements Product Specification for Lamps Version 1.0: Start Time Test Method." [15] ENERGY STAR released "ENERGY STAR Program Requirements for Lamps and Luminaires Start Time Test Method" [16] in September 2015 (hereafter "ENERGY STAR Start Time Test Method"). For this final rule, DOE reviewed the latest version of the ENERGY STAR Start Time Test Methods and determined that the only differences between the two methods are the applicable products and referenced documents.[17]

DOE determined that its proposed start time test method continues to align with the ENERGY STAR Start Time Test Method, while providing greater specificity in order to ensure consistency and reproducibility in measurements. (DOE also notes section 11.4 of ENERGY STAR Lamps Specification V2.0 references the DOE test procedure for compact fluorescent lamps (once final) for measuring start time of fluorescent lamps.) The following sections describe how the proposed definitions and test procedures for start time harmonize with the ENERGY STAR Start Time Test Methods as well as amendments to these proposals that provide further simplification and clarity.

Definitions

In the July 2015 NOPR, DOE proposed definitions for the terms "start plateau," "percent variability," and "start time." 80 FR 45754. DOE proposed to define the term "start plateau" as the first 100 millisecond period of operation during which the percent variability does not exceed 5 percent and the average measured lumen output is at least 10 percent of the measured initial lumen output. 80 FR 45736. This definition aligns with ENERGY STAR's definition of "initial plateau" as "the point at which the average increase in the light output over time levels out (reduces in slope). This can be determined mathematically or visually based on the lamp output trace."

Both definitions are intended to describe a time interval in which the light output is relatively steady. ENERGY STAR does not specify the method by which such a time interval should be quantitatively and objectively determined. In order to ensure consistent and reproducible measurements, DOE's proposed definition specifies the time period over which lumen output should be steady as 100 milliseconds and described the criteria for light output that must be met during this time period. DOE selected 100 milliseconds to evenly capture either 5 or 6 full cycles of the sampled waveform (for 50 or 60 Hz input voltage, respectively). 80 FR 45736. Section 5.4 of IES LM–28–12 states that by choosing the integrating time to be a multiple of the period of the line frequency (16.67 milliseconds for 60 Hz), for example, 100 milliseconds (6 line cycles for 60 Hz and 5 line cycles for 50 Hz), the effect of flicker for either line frequency can be removed. *Id.*

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[15] *ENERGY STAR® Program Requirements Product Specification for Lamps Version 1.0: Start Time Test Method.* August 2013. *www.energystar.gov/sites/default/files/specs//ENERGY%20STAR%20Lamps%20V1%200%20Final%20Test%20Methods%20and%20Recommended%20Practices.pdf.*

[16] *ENERGY STAR® Program Requirements for Lamps and Luminaires Start Time Test Method.* September 2015. *https://www.energystar.gov/sites/default/files/ENERGY%20STAR%20Start%20Time%20Test%20Method_1.pdf.*

[17] The August 2013 ENERGY STAR Start Time Test Method applied to integrated CFLs and solid-state lighting (SSL) lamps. In contrast, the September 2015 ENERGY STAR Start Time Test Method applies to all integrated and externally ballasted CFLs, and SSL lamps, light engines, and luminaires. Both versions referenced IES LM–66, "IES Approved Method for Electrical and Photometric Measurements of Single-Based Compact Fluorescent Lamps." However, the August 2013 ENERGY STAR Start Time Test Method referenced the 2011 version of IES LM–66 and the latest version references the 2014 version of IES LM–66.

Regarding the criteria for determining stability of light output during the first 100 milliseconds, DOE proposed that the percent variability not exceed 5 percent and that the average measured lumen output over the time interval should be at least 10 percent of the measured initial lumen output. The first criterion is intended to quantify when the light output can be deemed "stable." DOE determined that the criterion that the percent variability cannot exceed 5 percent is sufficient to capture a 100 millisecond interval in which light output is steady and subsequently determine an appropriate start time. The second criterion is intended to capture the time at which light output is first detected for a continuous period and ensure that light is actually being created from the lamp (*e.g.,* a stable output of zero if the lamp fails to turn on is not acceptable).

In re-evaluating the latter criterion, DOE found that requiring a specific threshold of light output is unnecessary for the start time metric. According to the test procedures established in this final rule, measured initial lumen output must be determined using the integrating sphere method. Therefore, for comparison purposes, the average lumen output in a 100 millisecond span that occurs during the initial operation of the lamp must also be determined using the integrating sphere method. However, DOE has determined that, due to the precision of the measurement, the integrating sphere may require reconfiguration and additional setup to measure the lumen output in the initial milliseconds of lamp operation. DOE has determined that including the latter criterion does not merit requiring a potentially complex test setup. Removing this criterion would allow for start time testing to be conducted using either an integrating sphere or non-integrating sphere method such as a photodetector. Therefore, in this final rule, DOE defines "start plateau" to mean "the first 100 millisecond period of operation during which the percent variability does not exceed 5 percent."

To provide further clarity to the definition of "start plateau," DOE proposed to define the term "percent variability" as the range (calculated by subtracting the minimum from the maximum) expressed "as a percentage of the mean for the contiguous set of separate lumen output measurements spanning the specified time period, where each lumen output measurement is the average value of the sampled waveform over an interval corresponding to one full cycle of sinusoidal input voltage." 80 FR 45736.

Because DOE is no longer requiring lumen measurements to determine start plateau, percent variability also does not have to be based on lumen output. Therefore, DOE is replacing the specification of lumen output measurements with light output values. Additionally, DOE is providing a clearer description of calculating a time-average of measured light output values. In summary, in this final rule, DOE is specifying "percent variability" to be "the result of dividing the difference between the maximum and minimum values by the average value for a contiguous set of separate time-averaged light output values spanning the specified time period. For a waveform of measured light output values, the time-averaged light output is computed over one full cycle of sinusoidal input voltage, as a moving average where the measurement interval is incremented by one sample for each successive measurement value."

In the July 2015 NOPR, DOE proposed to define the term "start time" as the time, measured in milliseconds, between the application of power to the CFL and the point when the measured full-cycle lumen output (the average value of the sampled waveform over an interval corresponding to one full cycle of sinusoidal input voltage) reaches 98 percent of the average measured lumen output of the start plateau. 80 FR 45754. ENERGY STAR defines start time as "the time between the application of power to the device and the point where light output reaches 98% of the lamp's initial plateau."

GE commented that from the consumer's perspective the simplest definition for start time is the time between energizing the circuit and the first light output. GE added that the specification of 97 or 96 percent of the plateau was not distinguishable. (GE, Public Meeting Transcript, No. 4 at pp. 68–70)

ENERGY STAR Lamps Specification V2.0 describes start time as the time for a lamp to remain continuously illuminated after applying electrical power. DOE agrees that the start time metric is intended to capture the time of detection of first continuous light output. Hence, the 98 percent threshold is not necessary for representative measurements of start time. Therefore, in this final rule, DOE removes this element from the definition of start time. Additionally, DOE provides a clearer description of the point at which start time should be determined. In summary, DOE defines "start time" to mean "the time, measured in milliseconds, between the application of power to the CFL and the beginning of the start plateau."

Lamp Storage/Operating Cycle Post Seasoning

In the July 2015 NOPR, DOE proposed that, after seasoning, units must be stored at 25 ± 5 °C ambient temperature for a minimum of 16 hours prior to testing, after which the ambient temperature must be 25 ± 1 °C for a minimum of 2 hours prior to testing. DOE also determined that any units that have been off for more than 24 hours must be operated for 3 hours and then be turned off for 16 to 24 hours prior to testing. 80 FR 45736. ENERGY STAR Start Time Test Method prescribes similar specifications with the time period characterized as 20 ± 4 hours.

During the public meeting for the July 2015 NOPR, OSI stated that 16 hours after the lamp is seasoned before testing was atypical for its test laboratories and based on this schedule the time that testing could begin would be outside the normal work schedule. OSI added that the rationale for the 16 hours after seasoning was not well understood. (OSI, Public Meeting Transcript, No. 4 at pp. 73–74) During the public meeting, DOE noted that the proposed storage and operating cycle post seasoning requirements were consistent with ENERGY STAR. (DOE, Public Meeting Transcript, No. 4 at p. 75) OSI acknowledged the ENERGY STAR specification of the 16 hour period, but, stated that ENERGY STAR testing does not represent all of the testing that OSI conducts because not all of their products are submitted to ENERGY STAR. OSI elaborated they did not have a technical justification for or against the time period, but that it could be a potential cost burden. (OSI, Public Meeting Transcript, No. 4 at p. 74) Westinghouse Lighting (Westinghouse) added that the scheduling and subsequent cost issues described by OSI are even more pronounced for them because they use an independent testing laboratory where not all Westinghouse products may be tested at the same time. (Westinghouse, Public Meeting Transcript, No. 4 at pp. 74–76)

The proposed operating cycle ensures that the lamp has been seasoned and recently operated, but not so recently that elements in the recent operation of the lamp could directly affect start time. DOE does clarify in this final rule that the 3 hours that the unit must be operated after being off for more than 24 hours is a minimum of 3 hours. This specification is mainly for clarification purposes; DOE does not find that operating the lamp for a longer period would affect the start time testing. Any units that have been off for more than 24 hours must be operated for a minimum of 3.0 hours and then be turned off for 16 to 24 hours prior to testing. DOE notes that the range of 16 to 24 hours in the off state provides an 8 hour range during which start time testing may begin, which should allow it to be conducted during normal working hours. Therefore, DOE adopts the proposed operating cycle and ambient temperature requirements described in this final rule.

Testing Methodology

For test setup and conditions for measuring start time, DOE proposed in the July 2015 NOPR to reference IES LM–66–14 and IES LM–54–12. 80 FR 45735–45736. DOE proposed to adopt the measurement circuit requirements as specified in section 5.2 of IES LM–66–14 and that lumen output measurements be taken as specified in section 6.3.1 of IES LM–66–14. DOE also proposed to adopt seasoning specifications as provided in sections 4, 5, 6.1, 6.2.2.1of IES LM–54–12. 80 FR 45736. Further, DOE proposed that a multichannel oscilloscope with data storage capability be connected to record the input voltage to the CFL and its lumen output. DOE specified that the oscilloscope must be set to trigger at 10 V lamp input voltage, to have the vertical scale set at a vertical resolution that is 1 percent of measured initial lumen output or finer, and to be set to sample the lumen output waveform at a minimum rate of 2 kHz. *Id.*

The proposed test setup and conditions generally align with those specified by ENERGY STAR. Section 4(B) of the ENERGY STAR Start Time Test Method references IES LM–66–14 and IES LM–54–12. Section 5.A(2) of the ENERGY STAR Start Time Test Method requires a multichannel oscilloscope with data storage capability and section 7.1(F) also requires to set the trigger level at 10 V. DOE's proposal for a minimum 2 kHz sampling rate is also consistent with the ENERGY STAR requirement for flicker testing,[18] and DOE understands that this requirement would also provide sufficient horizontal resolution for start time testing. DOE did not receive any comments specific to the proposed test setup and conditions for start time. In this final rule, DOE adopts the test setup and conditions as proposed in the July 2015 NOPR.

In the July 2015 NOPR, DOE also proposed that upon the trigger for start time testing, the sampled lumen output waveform must be recorded until the measured lumen output has reached the start plateau. 80 FR 45736. In addition, DOE proposed in the NOPR that the trace of full-cycle lumen output must be calculated as a moving average, whereby values are determined at least once every millisecond and each value represents the full-cycle interval in which it is centered. *Id.* The August 2013 ENERGY STAR Start Time Test Method provides an example of a light output trace for compact fluorescent lamps. Aligning with ENERGY STAR, DOE's proposed steps provide specifics on recording such a light output trace and how time-averaged values from the light output trace should be calculated. Specifically, in this final rule, DOE states that, upon the trigger for start time testing, the sampled light output must be recorded until the start plateau (as defined in this section) has been determined. Additionally, in this final rule, to determine the "percent variability" of light output in accordance with the start plateau definition, DOE requires calculation of a time-averaged light output value at least once every millisecond where each value represents the full-cycle interval in which it is centered. DOE further specifies that, for a waveform of measured light output values, the time-averaged light output is computed over one full cycle of sinusoidal input voltage, as a moving average where the measurement interval is incremented by one sample for each successive measurement value.

Lamp Orientation

In the July 2015 NOPR, DOE proposed that all units be tested in the base up position, but that if the position is restricted by the manufacturer, units would be tested in the manufacturer specified position. 80 FR 45755. Section 5(H) of the September 2015 ENERGY STAR Start Time Test Method states the samples be tested in the orientation(s) as specified by the ENERGY STAR specification or manufacturer specified position if different. It should be noted that ENERGY STAR Lamps Specification V2.0 does not state the testing orientation in section 11.4, Start Time. However, for purposes of consistency, DOE proposed that all units for start time be tested in the base up position, but that if the position is restricted by the manufacturer, units must be tested in the manufacturer specified position. DOE did not receive any comments specific to lamp orientation for start time; and in this final rule adopts the sample unit orientation specification.

Hybrid Lamps

In the July 2015 NOPR, DOE proposed measuring only integrated CFLs for start time, which would include hybrid lamps. 80 FR 45755. DOE also proposed that hybrid CFLs must be tested with all supplemental light sources turned off, if possible. 80 FR 45737.

The EEAs cautioned that having the supplemental light source off during testing could yield inaccurate test results for start time testing. (EEAs, No. 8 at p. 3) NEMA requested the start time test procedure not apply to hybrid CFLs or to not require that the supplementary light source not be operating. (NEMA, No. 9 at p .7) GE also requested that hybrid CFLs be exempt from start time testing because it could lead to inaccurate results because one of the primary functions of hybrid CFLs is to allow for quicker start time through the supplemental light source. (GE, Public Meeting Transcript, No. 4 at pp. 59–60)

DOE has determined that hybrid lamps should not be exempt from the start time test procedure. The March 2016 NOPR proposes a start time metric for medium base CFLs. If a hybrid CFL meets the definition of medium base CFL, then the applicable standard applies to the hybrid CFL. Similarly, ENERGY STAR Lamps Specification V2.0 does not specify different start time requirements for hybrid CFLs. DOE determined that requiring the supplemental light source be off, if possible, is the most consistent manner in which the various combinations of primary and supplementary light sources in hybrid CFLs can be tested. Therefore, in this final rule, DOE retains the requirement that hybrid CFLs be tested for start time with the supplemental light source turned off, if possible.

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[18] ENERGY STAR® Program Requirements Product Specification for Lamps Version 1.0—Light Source Flicker Recommended Practice. August 2013. Washington, DC. *www.energystar.gov/sites/default/files/specs//ENERGY%20STAR%20Lamps%20V1%200%20Final%20Test%20Methods%20and%20Recommended%20Practices.pdf.*

5. Test Procedures for New CFL Categories

a. Test Procedures for Integrated CFLs

In the July 2015 NOPR, DOE proposed test procedures for integrated CFLs without exclusion of any base type. NEMA, OSI, and Philips requested that DOE exclude E12 [19] and GU24-based integrated lamps from the test procedure. All three entities stated that lamps with these bases represented a small portion of the market. (NEMA, No. 9 at pp. 2,8; OSI, No. 5 at p. 7; Philips, No. 6 at p. 3) NEMA and OSI further stated that if a particular lamp has the same technical specifications across lamps with medium, E12, and GU24 base types, then DOE should only require testing on MBCFLs. NEMA and OSI argued that base type does not have any effect on lamp performance. (NEMA, No. 9 at pp. 2, 6; OSI, No. 5 at pp. 2, 5)

Regarding the applicability of the test procedure to integrated lamps with certain base types, DOE notes that the March 2016 NOPR proposed standards for GU24 base integrated lamps. 81 FR 14551. Further, CFLK standards with required compliance in 2019 are applicable to CFLKs packaged with CFLs of all base types. As both of these standards will be supported by this test procedure, DOE is obligated to establish test procedures for CFLs of all base types for the applicable metrics addressed in those rules. Therefore, in this final rule, DOE does not exclude E12 and GU24-base lamps from the test procedures for integrated CFLs.

Regarding lamps that have the same technical specifications, manufacturers must submit represented values of required metrics for each basic model before distribution in commerce. 10 CFR 429.12(a). Represented values of measures of energy efficiency or energy consumption must be the same for all individual models represented by a given basic model. 10 CFR 429.11(a). However, DOE provides manufacturers with the flexibility to group individual models into basic models for the purposes of certification to DOE, provided that all representations regarding the energy efficiency or energy consumption of CFLs within that basic model are identical and based on the most consumptive unit. See 76 FR 12422, 12423 (March 7, 2011). Therefore, it may be possible to group lamps that have the same technical specifications but different base types into the same basic model. However, all representations within a basic model must have essentially identical electrical, physical, and functional characteristics that affect energy efficiency (see definition of basic model per 10 CFR 430.2). Accordingly, CFLs that are in separate product classes and thereby subject to separate standards (*e.g.*, integrated and non-integrated CFLs) cannot be grouped in the same basic model. Also, DOE does not believe it is appropriate to group models of lamps that have different testing methods as defined in Appendix W into the same basic model as they will not have essentially identical electrical characteristics.

b. Test Procedures for Non-Integrated CFLs

In the July 2015 NOPR, DOE proposed test procedures for non-integrated CFLs. Specifically, DOE proposed adopting section 5.2 of IES LM–66–14 for electrical and photometric testing of non-integrated CFLs, which specifies procedures for determining initial lamp efficacy, lumen maintenance at 40 percent of lifetime, CRI, and CCT. 80 FR 45737. To ensure repeatable and consistent measurements, DOE proposed that non-integrated CFLs must be tested using the appropriate reference ballasts as provided in section 5.2 of IES LM–66–14, which specifies using reference ballasts specifications listed in ANSI C78.901–2014, "American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics," (hereafter "ANSI C78.901–2014"). *Id.*

NEMA and OSI agreed with referencing ANSI C78.901–2014 to identify reference ballasts for non-integrated CFLs, but also stated that industry only has experience using reference ballasts for photometry. (NEMA, No. 9 at pp. 6–7; OSI, No. 5 at pp. 5–6) Reference ballast characteristics provide the necessary functionality to operate a non-integrated CFL and a standardized and consistent method of testing non-integrated CFLs. DOE does not find any technical reason why reference ballasts cannot be used for non-photometric measurements. Therefore, in this final rule, DOE requires using reference ballast specifications in ANSI C78.901–2014 to test non-integrated CFLs for all measurements.

In the July 2015 NOPR, DOE noted that certain non-integrated CFL designs do not have reference ballast specifications listed in ANSI C78.901–2014. For these lamp designs, DOE proposed reference ballast specifications. In cases where there are no reference ballast specifications for a lower wattage CFL, DOE proposed the reference ballast specifications of the corresponding full wattage version, if they existed. For all other cases, DOE developed reference ballast specifications by matching the shape, diameter, and base of the CFL without reference ballast specifications to the most similar CFL with specifications that also had the closest wattage. 80 FR 45737. For any non-integrated CFLs that do not have a reference ballast listed in ANSI C78.901–2014 and for which DOE has not specified reference ballast characteristics in appendix W, DOE also specified two principles that must be employed to determine the appropriate reference ballast specifications. For such a lamp, DOE specified that, manufacturers must use the specifications in ANSI C78.901 2014 for the higher wattage lamp for which it is a replacement; otherwise, use the specifications in ANSI C78.901 2014 for a lamp with the most similar shape, diameter, and base specifications, and next closest wattage. OSI agreed with DOE's proposal to address lamps for which reference ballast characteristics are not specified. (OSI, No. 5 at pp. 5–6) In this final rule, DOE is also specifying the appropriate frequency along with the reference ballast values of current, impedance, and voltage.

To specify a consistent set of testing procedures for non-integrated CFLs, in the July 2015 NOPR, DOE proposed several clarifications and specifications regarding the circuits on which the lamps must be tested. 80 FR 45737. DOE proposed to test non-integrated CFLs rated for operation on a choice of low frequency or high frequency circuits at low frequency only. *Id.*

GE, NEMA, and OSI stated they were unaware of any dual-frequency reference ballast specifications. (GE, Public Meeting Transcript, No. 4 at pp. 56–57; NEMA, No. 9 at pp. 6–7; OSI, No. 5 at p. 6) NEMA and OSI suggested that DOE require testing at the manufacturer-specified frequency. (NEMA, No. 9 at pp. 6–7; OSI, No. 5 at p. 6) GE stated that, because these products are operating at high frequency in application, testing them at low frequency reference conditions when high frequency reference conditions are available would misrepresent their efficacy. (GE, Public Meeting Transcript, No. 4 at pp. 56–57)

As noted previously, in order to establish a set of consistent specifications and conditions and to follow industry standards for testing non-integrated CFLs, in this final rule, DOE is requiring the use of ANSI C78.901–2014 for reference ballast values per IES LM–66–14. There are certain lamps for which ANSI C78.901–2014 provides details for both low and high frequency operation. For example, a 36 W T5 single-based fluorescent lamp on datasheet 78901–ANSI–4019–1 provides reference ballast characteristics for low frequency operation and also information on high frequency ballast design. Manufacturers must use the values designated as "reference ballast characteristics" when testing lamps. If more than one set of values is designated as "reference ballast characteristics," then manufacturers must use the values designated for low frequency operation. DOE reviewed the reference ballast specifications for non-integrated CFLs and found that the majority are specified for low frequency operation. Therefore, in this final rule, in order to maintain consistency and comparability across testing, DOE continues to require operating on low frequency where reference ballast characteristics for both low and high frequency operation are provided.

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[19] DOE defines a candelabra base incandescent lamp in 10 CFR 430.2 as a lamp that uses a candelabra screw base as described in ANSI C81.61, Specifications for Electric Bases, common designations E11 and E12 . The base is not specific to the light source, therefore a candelabra base lamp can be either an E11 or E12 base.

DOE also proposed in the July 2015 NOPR that non-integrated CFLs rated for multiple circuits including rapid start (*i.e.*, rapid start and either preheat start or instant start) be tested on rapid start circuits when rapid circuits are an option to ensure consistent measurements. 80 FR 45737.

NEMA and OSI disagreed with the requirement to use rapid start circuits. Both NEMA and OSI stated that rapid start circuits have not typically been used in testing of non-integrated CFLs and expressed concerns regarding how the testing would relate to certification, compliance, and enforcement. (NEMA, No. 9 at pp. 6–7; OSI, No. 5 at p. 6) GE indicated that a rapid start circuit would include cathode heat while use of a programmed start circuit would exclude cathode heat. GE explained that testing without cathode heat is the most representative of the current applications. GE further added that including cathode heat would decrease the apparent lamp efficacy, and not be reflective of how the product is used. (GE, Public Meeting Transcript, No. 4 at pp. 56–58)

In reviewing the reference circuits specified for lamps, DOE has decided to modify its proposed specifications for reference circuits on which non-integrated CFLs must be tested in this final rule. In the July 2015 NOPR, DOE proposed to specify that a rapid start reference circuit be used when a non-integrated CFL is rated for multiple circuits in order to establish a consistent set of test specifications. In preparation for this final rule, DOE reviewed the reference ballast specifications for non-integrated CFLs and found that most lamps are rated for preheat circuits. DOE found that if a lamp was rated for multiple circuits, further specifications still may be needed to indicate the circuit to use for testing. If a lamp is rated for operation on both a preheat and high frequency circuit, the reference ballast characteristics provided describe low frequency operation and therefore the lamp must be tested on the low frequency preheat circuit. If a lamp is rated for operation on both a preheat and rapid start circuit, DOE is specifying in this final rule that the lamp be tested on the preheat circuit in order to maintain consistency and comparability across testing.

In this final rule, DOE is not adopting test procedures for lumen maintenance at 1,000 hours or rapid cycle stress test for non-integrated CFLs, as these metrics are not being evaluated for inclusion in, nor are they currently required by, any DOE energy conservation standards, FTC Lighting Facts labeling requirements, or ENERGY STAR program requirements. Therefore, in this final rule, DOE adopts test procedures for initial lamp efficacy, lumen maintenance at 40 percent of estimated lifetime, lifetime, CRI, and CCT for non-integrated CFLs.

c. Test Procedures for Hybrid CFLs

In the July 2015 NOPR, DOE proposed establishing a test procedure to measure the applicable metrics for hybrid CFLs in appendix W. That is, DOE proposed that the same test procedures for integrated CFLs would be applicable to hybrid CFLs, with a few minor clarifications regarding the configuration and operation of hybrid CFLs during testing. DOE considers hybrid CFLs to be CFLs with an additional light source of a different technology that is not the primary source of light. DOE proposed to define the term "hybrid compact fluorescent lamp" in appendix W as a CFL that incorporates one or more supplemental light sources of different technology. 80 FR 45737–45738. NEMA and OSI proposed the definition of "a compact fluorescent lamp that incorporates one or more supplemental light sources of different technology, such as halogen or LED, which are energized and operated independently and may or may not operate simultaneously." (NEMA, No. 9 at p. 7; OSI, No. 5 at p. 6) OSI stated that there are different types of hybrid lamps where either the main or the supplemental light source operates or both the main and supplemental light sources operate. OSI requested that both the definition and related test procedures address these different possible configurations of hybrid lamps. (OSI, Public Meeting Transcript, No. 4 at p. 59)

DOE reviewed the definition suggested by NEMA and OSI and notes that there is significant overlap between DOE's proposed definition and the alternate definition. Both definitions contain a reference to a CFL as well as supplemental technologies. DOE finds that the example "such as halogen or LED" is not necessary, as the DOE's proposed definition specifies that the supplemental light sources would be of "different technology." Further providing such examples may be misinterpreted by some users to limit the types of applicable supplementary sources. NEMA and OSI's other suggestion of "which are energized and operated independently and may or may not operate simultaneously" identifies potential operating configurations of the supplementary light sources. By not specifying any configurations for the operation of the supplementary light source, DOE's proposed definition does not exclude the configurations mentioned by NEMA and OSI or any others. DOE's proposed definition is also consistent with industry definitions of other hybrid technologies such as a hybrid LED luminaire as defined in IES RP–16–10, which also does not identify the operating parameters of the different light sources. For these reasons, DOE retains the proposed definition from the July 2015 NOPR of the term "hybrid compact fluorescent lamp" as meaning a CFL that incorporates one or more supplemental light sources of different technology. DOE believes that this is consistent with the definition suggested by interested parties, but is more general and leaves less room for misinterpretation of specific examples or operating parameters.

In the July 2015 NOPR, DOE proposed a test procedure for hybrid CFLs where the supplemental light source is off (if possible) and the lamp stabilized. *Id.* In response to the proposal, the EEAs encouraged DOE to incorporate language defining a not-to-exceed time to stabilization prior to taking measurements to prevent extended periods of operation of secondary sources. (EEAs, No. 8 at p. 3)

DOE's test procedure for hybrid CFLs requires that the supplementary source be turned off before initiating testing. In the cases where supplementary source cannot be turned off, the lamp must adhere to stabilization criteria as specified in section 6.2.1 of IES LM–66–14. This stabilization criteria involves a series of time-related measurements to determine stable light output and electrical usage. Although the supplementary source may have some effect on the stabilization time, it is more important that the lamp achieve stabilization per an established criterion in order to obtain accurate measurements. Further, the determination of a stable light output will likely be predominantly influenced by the CFL, which is the primary source of light. Therefore, in this final rule, DOE is not adding a not-to-exceed time for stabilization for taking measurements of hybrid CFLs.

NEMA was supportive of DOE's proposed test procedure for hybrid lamps. However, NEMA requested that start time not apply to hybrid CFLs. NEMA added that if start time testing was required for hybrid CFLs, the supplementary light source should be turned on. NEMA agreed with DOE's proposal to test hybrid CFLs as non-hybrid CFLs (that is with only the CFL source active) for any measurements besides start time. (NEMA, No. 9 at p. 7) The EEAs disagreed with DOE's proposal that hybrid lamps be tested for efficacy with the supplemental light source turned off. The EEAs argued that having the supplemental light source off during testing could yield inaccurate test results for both start time testing and energy efficiency. (EEAs, No. 8 at p. 3) DOE addressed start time testing in section III.A.4.d. DOE disagrees with the EEAs that testing hybrid CFLs with the supplemental light source off (when possible) would yield inaccurate results for energy efficiency. Testing the hybrid CFL with only the CFL light source operating (when possible) would yield comparable efficacy measurements across basic models of CFLs. Further, based on a review of available hybrid CFLs, DOE has determined that many supplemental light sources turn off automatically or will likely be turned off during normal operation (such as when the supplemental light source is intended to be a night light). Thus, DOE's test procedure is representative of lamp operation under normal conditions.

In this final rule, DOE adopts a requirement that hybrid CFLs must be tested with all supplemental light sources turned off, if possible, and that the lamp be stabilized in the operating mode that corresponds to its primary light source, according to test procedures for CFLs in appendix W.

6. Test Procedure for Standby Mode Energy Consumption

In the July 2015 NOPR, DOE proposed a test procedure to measure standby mode energy consumption for integrated CFLs, where applicable, in appendix W. 80 FR 45738. EPCA directs DOE to amend its test procedures for all covered products to incorporate a measure of standby and off mode energy consumption in accordance with IEC 62301 and IEC 62087, if technically feasible. (42 U.S.C. 6295(gg)(2))

DOE research indicated that some integrated CFLs include controls, and that these CFLs can operate in standby mode but not off mode. DOE did not find any non-integrated CFLs capable of operation in standby mode or off mode, and understands that any such circuitry would likely be found in the ballast rather than the lamp. Therefore, in the July 2015 NOPR, DOE proposed that standby mode power be measured only for integrated CFLs that are capable of standby mode operation. 80 FR 45738.

For integrated CFLs, DOE proposed that standby mode power be measured in accordance with IEC 62301. DOE also proposed to approve IEC 62301, which is already incorporated by reference in 10 CFR 430.3, for incorporation into appendix W. DOE proposed that, when measuring standby power for integrated CFLs, the test conditions and setup must be as prescribed in IEC 62301, except for ambient temperature and ambient airflow. Instead, DOE proposed to prescribe the ambient temperature and ambient airflow requirements in IES LM–66–14 to minimize differences between test procedures for active mode and standby mode. DOE proposed to season lamps in the same manner as test procedures for the other applicable CFL metrics, as described in section III.A.2.e, and to measure standby mode power as prescribed in section 5 of IEC 62301. Finally, DOE proposed that standby mode be initiated when the integrated CFL is connected to the power supply and lumen output is set to zero via remote or other wireless/sensor control. 80 FR 45738.

NEMA and OSI commented that, according to the definition proposed in the July 2015 NOPR, CFLs operate in the off mode when switched off. They also stated that off mode consumes no power nor produces any function. (NEMA, No. 9 at p. 7; OSI, No. 5 at p. 6)

DOE determined that it is not possible for CFLs to meet the off mode criteria because there is no condition in which a CFL is connected to main power and is not already in a mode accounted for in either active or standby mode. That is, DOE is not aware of any CFLs that, when provided with power, are not operating in active mode (*i.e.,* illuminated) or standby mode (*i.e.,* facilitating the activation or deactivation of active mode via remote switch, internal sensor, or timer). In response to the specific example raised by NEMA and OSI, a CFL that is switched off is not connected to a main power source because the circuit is disrupted at the switch and thus power is not being provided to the CFL. Therefore, in this final rule, DOE retains the position that CFLs do not operate in off mode and has not considered test procedures for such modes of operation.

NEMA, Philips, and OSI also requested that DOE explicitly exclude CFLs that are not designed with standby operation from standby mode power measurements. (NEMA, No. 9 at p. 7; OSI, No. 5 at p. 6; Philips, No. 6 at p. 4) DOE agrees with NEMA, OSI, and Philips that only integrated CFLs capable of operating in standby mode should be tested for standby mode energy consumption. In the July 2015 NOPR, DOE proposed regulatory language for measuring standby power in appendix W that stated standby mode energy consumption should be measured only for integrated CFLs that are capable of standby mode operation. 80 FR 45755. For further clarity, in the final rule DOE has moved this instruction to the beginning of the regulatory text for the standby mode test procedure in appendix W.

DOE received comments from CA IOUs to harmonize testing for standby mode operation with the LED lamps test procedure.[20] (CA IOUs, No. 7 at pp. 4–5) The CA IOUs wanted to ensure that lamps capable of operation in network mode were tested in network mode. (CA IOUs, No. 7 at pp. 4–5) Specifically, CA IOUs requested that DOE define network mode and suggested that if a product is designed to be connected to a wireless network in order to fully operate, then the test procedure should specify that the lamp is to be connected to the network before testing begins. Connected lamps may require the use of an external control system or hub to serve as a communication point between the lamp and end user, and the CA IOUs asked DOE to specify a maximum permissible distance the control system can be from the lamp during testing. (CA IOUs, No. 7 at pp. 4–5) The EEAs were supportive of the

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[20] Information regarding the Light-Emitting Diode Lamps Test Procedure Rulemaking can be found on regulations.gov, docket number EERE–2011–BT–TP–0071 at *www.regulations.gov/#!docketDetail;D=EERE-2011-BT-TP-0071.*

CA IOUs comments. (EEAs, No. 8 at pp. 5–6)

DOE agrees that the test procedure needs additional detail to specify that lamps capable of operation in standby mode must remain connected to the external wireless network through the entirety of the test for standby mode energy consumption. If the lamp becomes disconnected, the lamp may exit standby mode or otherwise have its power draw affected, which would yield inaccurate test results. Therefore, in this final rule DOE is adding detail to section 4 of appendix W to specify that integrated CFLs capable of connecting to a communication network must be connected to the network prior to testing and must remain connected throughout the duration of the test. DOE did not specify a maximum distance the integrated CFL can be from the control system or hub during testing because DOE believes the requirement for the integrated CFL to remain connected throughout the entire duration of the test ensures that, if an integrated CFL is moved to a distance such that it disconnects from the communication network, the test results would be invalid.

CA IOUs also commented that connected lamps may experience cycles or power fluctuations when lamps are communicating with the wireless network, and requested the test procedure provide instructions to account for this in an average power metric over a minimum 5-minute test duration. (CA IOUs, No. 7 at pp. 4–5) The EEAs were supportive of the CA IOUs comments. (EEAs, No. 8 at pp. 5–6)

DOE is requiring that standby mode measurements be taken as specified in section 5 of IEC 62301. DOE notes that section 5 of IEC 62301 gives manufacturers the flexibility to choose the measurement method that best applies to the nature of their products' power supply. Further, each of the methods available for use in IEC 62301 specifies that the product must have test durations of at least 10 minutes, which is an adequate test duration to ensure wattage fluctuations have been recorded. IEC 62301 also states that data collection at equal intervals of 0.25 seconds or faster is recommended for loads that are unsteady or where there are any regular or irregular power fluctuations. DOE finds that the measurement instructions provided in section 5.0 of the IEC 62301 appropriately account for any potential power fluctuations, and is not specifying additional instructions regarding measurement of standby mode power.

In addition, DOE is clarifying in this final rule that standby mode testing must be conducted prior to testing for time to failure. DOE is also clarifying that ambient conditions, power supply, electrical settings, and instrumentation must be the same as used for active mode testing. These clarifications are intended to ensure that test conditions will be as consistent as possible.

7. Rounding Values

In the July 2015 NOPR, DOE proposed amending certain rounding requirements for existing metrics, as DOE found the existing rounding requirements for individual units in a given test sample to be inconsistent with the required standard level for some metrics. For example, although final values for lumen maintenance at 1,000 hours and lumen maintenance at 40 percent of lifetime must be rounded to whole numbers, existing standards for lumen maintenance at 1,000 hours (90.0 percent) and lumen maintenance at 40 percent of lifetime (80.0 percent) are specified to the tenth of a percent in 10 CFR 430.32(u). In the July 2015 NOPR, DOE also proposed to move the rounding requirements from appendix W to 10 CFR 429.35. 80 FR 45738.

DOE noted in the July 2015 NOPR that the rounding requirements for lumen maintenance measurements are to the nearest tenth for integrated CFLs, and proposed the same requirement for non-integrated CFLs. *Id.* Both NEMA and OSI recommended that lumen maintenance be rounded to the nearest whole number. (NEMA, No. 9 at p. 8; OSI, No. 5 at p. 7) NEMA further stated that rounding lumen maintenance to the nearest tenth of a percent is not practical or meaningful. (NEMA, No. 9 at p. 8) DOE notes that the lumen maintenance value of the standard is to the tenth of a percent and was established in the 2006 rule that adopted standards for MBCFLs. 71 FR 71340, 71369 (Dec. 8, 2006). DOE understands that at least 3 significant figures are required in both the numerator (maintained lumens) and denominator (initial lumens) to yield 3 significant figures for lumen maintenance values. DOE reviewed product catalogs currently published by OSI and several other CFL manufacturers and determined that lumen output values are often reported to 3 or 4 significant figures. Therefore, DOE has concluded that it is possible to determine lumen maintenance to the nearest tenth of a percent. To align with existing standards, in this final rule, DOE provides in 10 CFR 429.35 that lumen maintenance at 1,000 hours and lumen maintenance at 40 percent of lifetime must be rounded to the nearest tenth of a percent.

In the July 2015 NOPR, DOE proposed that lifetime of a CFL be rounded to the nearest hour and that these requirements be located in 10 CFR 429.35. 80 FR 45738. Both NEMA and OSI argued that lifetime should be rounded to two significant digits. (NEMA, No. 9 at p. 8; OSI, No. 5 at p. 7) NEMA further stated that expressing lifetime to the nearest hour is meaningless, as the uncertainty in an individual time-to-failure measurement is much larger than 1 hour. (NEMA, No. 9) However, rounding to the nearest whole hour is consistent with the unit of time used for lifetime metrics for other lamp technologies, such as LED,[21] and is a level of accuracy a laboratory is capable of measuring with a standard time-keeping device. In this final rule, DOE adopts a rounding requirement to the nearest whole hour for lifetime. DOE notes that manufacturers can make representations of lifetime to the nearest two significant digits provided that the value is lower than the actual measured lifetime when rounded to the nearest hour (*i.e.,* manufacturers are reporting a conservative value for lifetime).

DOE did not receive any comments on the proposal to round initial lamp efficacy values to the nearest tenth of a lumen per watt, input power to the nearest tenth of a watt, lumen output to three significant digits, or rapid cycle stress values to whole numbers. Therefore, in this final rule, DOE adopts these requirements.

Additionally, in the July 2015 NOPR, DOE proposed rounding requirements for new proposed metrics of CRI, CCT, start time, standby mode power, and power factor based on industry standard reporting precision, as determined based on a review of manufacturer catalogs. DOE also proposed locating those rounding requirements in 10 CFR 429.35. 80 FR 45738. DOE did not receive any comments related to this proposal. Therefore, in this final rule, DOE adopts the rounding requirements for these metrics as proposed in the July 2015 NOPR, specifically: CRI be rounded to the nearest whole number; start time be rounded to the nearest whole number in milliseconds; CCT be rounded to the nearest 100 K; standby mode power rounded to the nearest tenth of a watt; and power factor be rounded to the nearest hundredths place.

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[21] *See* LED final rule test procedure. 81 FR 43404 (July 1, 2016).

B. Amendments to Definitions at 10 CFR 430.2

1. Compact Fluorescent Lamp

In the July 2015 NOPR, DOE proposed to add a definition of "compact fluorescent lamp" in 10 CFR 430.2. 80 FR 45738–45739. DOE reviewed its definitions for other lighting products and considered the existing definition of the term "fluorescent lamp" at 10 CFR 430.2 as a basis for its definition of "compact fluorescent lamp." DOE also consulted the current IES definition of "compact fluorescent lamp" contained in IES RP–16–10 and the description of compact fluorescent lamps in IES LM–66–14, which includes elements of the lamp characteristics and discusses elements of light output generation. During the public meeting for the July 2015 NOPR, OSI inquired why DOE did not adopt the IES RP–16–10 definition rather than developing a novel definition for compact fluorescent lamp. (OSI, Public Meeting Transcript, No. 4 at pp. 16–20) Lucidity Lights stated that IES labors over the exact wording in definitions and also encouraged DOE to use the exact wording in IES RP–16–10. (Lucidity Lights, Public Meeting Transcript. No. 4 at p. 22) Both NEMA and OSI also recommended that DOE use definitions from or reference IES RP–16–10. (NEMA, No. 9 at p. 5; OSI, No. 5 at pp. 2–3) NEMA stated that the proposed definition for CFL was technically correct, but raised concern that it expanded the scope of the definition. (NEMA, No. 9 at p. 8)

DOE appreciates the work that members of the IES did in developing the definitions in IES RP–16–10. DOE reviewed IES RP–16–10 and IES LM–66–14 in developing this final rule. DOE considered: (1) Use of the term fluorescent lamp; (2) tube diameter; (3) general features (*i.e.*, amalgam, cold chamber); (4) lamp geometry; and (5) base specification and lamp configuration in the definition. The following paragraphs provide additional details on each of these elements.

The definition of CFL in section 6.5.6.1.4 of IES RP–16–10 includes the phrase "a fluorescent lamp with . . ." DOE cannot use this element in 10 CFR 430.2 to define a CFL because 10 CFR 430.2 already defines the term fluorescent lamp, which establishes a fluorescent lamp as a low pressure mercury electric-discharge source in which a fluorescent coating transforms some of the ultraviolet energy generated by the mercury discharge into light, and is limited to six specific lamps, all of which are longer than 22 inches and are double ended. If DOE adopted a definition of CFL that contained the term "fluorescent lamp," it would include these large lamp lengths and base configurations that are not CFLs.

The definition of CFL in IES RP–16–10 also specifies that the diameter of the lamp's tube must be less than or equal to that of a T5. However, DOE's review of ANSI standards and manufacturer's lamp marketing materials indicated that there are CFLs with tube diameters greater than T5. Specifically, ANSI C78.901–2014 includes within their list of data sheets a handful of "square" shaped CFLs that are listed with a corresponding T6 tube diameter. DOE also found manufacturer data sheets of lamps greater than T5 in diameter that were single-ended and folded or bent fluorescent lamps and characterized as CFLs. Therefore, DOE determined that diameter could be a limiting specification that may exclude lamps that should be categorized as CFLs. Therefore, in this final rule, DOE does not include specification of the tube diameter in the definition of "compact fluorescent lamp."

The IES RP–16–10 definition also states that the lamp designs generally include amalgam and a cold chamber, or a cold spot, to control the mercury vapor pressure and light output. These features are general and not distinctive for all CFLs. Therefore, in this final rule, DOE does not include this description in the definition of "compact fluorescent lamp."

The IES RP–16–10 definition of "compact fluorescent lamp" specifies that tube construction must be glass and describes the configuration of the glass tube as folded, bent, or bridged to create a long discharge path. The IES LM–66–14 description of fluorescent lamps notes that a fluorescent lamp can be made compact in two ways. Fluorescent lamps with electrodes (typically long, tubular lamps) can be made compact by folding the tube one or more times or spiraling it in a helix in such a way that both electrodes are configured to have one connection, leading to single base construction. IES LM–66 also notes that induction-driven electrodeless fluorescent lamps are compact because the discharge current is required to form a closed loop inside the structure. Because fluorescent lamps with a compact size do not necessarily include a glass tube with a specific geometry, DOE does not add such a description to the definition of "compact fluorescent lamp."

Both of the introductory sections of IES LM–65–14 and LM–66–14 discuss that there are two types of CFLs: Integrated and non-integrated. Further, the titles of both IES LM–65–14 and LM–66–14 contain the phrase "single-based." DOE agrees with these IES documents in the importance of clarifying that CFLs are integrated or non-integrated and single-based. Therefore, DOE retains those terms in the definition of "compact fluorescent lamp" adopted in this final rule. IES LM–66–14 also specifically excludes U-shaped and circline fluorescent lamps from its CFL definition. DOE agrees with IES LM–66–14 that U-shaped and circline lamps are not CFLs. Therefore, to ensure such lamps are not inadvertently misclassified, DOE also retains these exclusions in the definition of "compact fluorescent lamp" adopted in this final rule.

In summary, DOE has incorporated language from IES RP–16–10 and IES LM–66–14 that helps clearly define CFLs without erroneously excluding or including lamps. In this final rule, DOE defines a compact fluorescent lamp (CFL) as an integrated or non-integrated single-base, low-pressure mercury, electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light; the term does not include circline or U-shaped lamps.

2. Correlated Color Temperature

In the July 2015 NOPR, DOE proposed modifying the definition of "correlated color temperature" in 10 CFR 430.2 by adding the abbreviation "CCT." DOE explained that a similar abbreviation exists in 10 CFR 430.2 for the definition of color rendering index or CRI. The abbreviation "CCT" is widely used in industry as well as by ENERGY STAR and in 10 CFR part 430, subpart B, appendix R. 80 FR 45739.

Both NEMA and OSI submitted written comments in support of the proposed change. (NEMA, No. 9 at p. 8; OSI, No. 5 at p. 7) OSI also suggested that DOE harmonize the definition with IES RP–16–10. (OSI, Public Meeting Transcript, No. 4 at pp. 16–19) Section 4.6.4.2 of IES RP–16–10 defines "correlated color temperature of a light source" as the absolute temperature whose chromaticity most nearly resembles that of the light source. Other than the added abbreviation of "or CCT" and the phrase "of a light source," DOE's definition (defined by EPCA) is the same as IES RP–16–10. Therefore, in this final rule, DOE adopts the abbreviation "CCT" into the term "correlated color temperature" and makes no other changes to the definition.

3. Lifetime of a Compact Fluorescent Lamp

DOE proposed to define "lifetime of a compact fluorescent lamp" in 10 CFR 430.2 as the time to failure of 50 percent of the sample size (as defined and calculated in 10 CFR 429.35(a)(1)) in accordance with the test procedures described in section 3.3 of appendix W. 80 FR 45733.

NEMA and Philips raised concerns that replacing "average rated life" with "lifetime of a compact fluorescent lamp" might result in unintended consequences; specifically, lumen maintenance of a lamp could not be determined until the lamp's lifetime is known. (NEMA, No. 9 at pp. 4–5; Philips, No. 6 at p. 4) DOE addresses lumen maintenance measurements in section III.A.4.a.

NEMA proposed replacing "average rated life" with "rated life," noting that the latter term appears in the CFR and is similar to the term "rated lamp life" defined in "Nomenclature and Definitions for Illuminating Engineering" from the IES (IES RP–16). NEMA stated the determination of lifetime should be independent of a specific sample size and allow for the use of more stable statistical estimators of the population median value than failure of 50 percent of the sample. Therefore, NEMA recommended that DOE define "rated life" as median time to failure of the population of CFLs. For further support, NEMA stated that EPCA defines "life" and "lifetime" as the length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group. NEMA also cited the IES Lighting Handbook which states in section 13.3 that for incandescent, fluorescent, and HID lamps, rated lamp life is the total operating time at which, under normal operating conditions, 50% of any large group of initially installed lamps is expected to have failed. This is a statistically determined estimate of the median operational life. NEMA stated that by adopting the definition in the IES Lighting Handbook, DOE would indicate that the lifetime is the median value of a large group of lamps and is statistically determined. NEMA also noted that DOE should not restrict the sample size to a multiple of two if statistical estimation of the population median value is accepted. (NEMA, No. 9 at pp. 4–5, 10)

OSI also proposed the term "rated life" citing 10 CFR part 430 and IES RP–16–10. OSI agreed with NEMA that lifetime should be determined independent of a specific sample size. OSI recommended a definition similar to the one in the IES Lighting Handbook, defining rated life as the total operating time at which, under normal operating conditions, 50 percent of any large group of initially installed lamps is expected to have failed, referencing the historic ENERGY STAR and IES definition. (OSI, No. 5 at pp. 4–5)

In general, NEMA and OSI stated lifetime is poorly estimated by the arithmetic mean of the time to failure of the two middle sample units when sorted in order. (NEMA, No. 9, p. 10; OSI, No. 5 at p. 9) During the public meeting for the July 2015 NOPR, both GE and Westinghouse stated the middle value of a sample was a poor indicator of the median and instead recommended using an entire population. (GE, Public Meeting Transcript, No. 4 at pp. 14–15, 25–26; Westinghouse, Public Meeting Transcript, No. 4 at pp. 15–16) GE added that the intent of the statutory language was to indicate a median value for lifetime, that DOE has the opportunity to clearly specify this and, further, that this value should represent 50 percent failure of the population to align with the industry standard for rated lifetime of lamps. (GE, Public Meeting Transcript, No. 4 at pp. 25–26)

DOE understands that the IES Lighting Handbook and EPCA describe "rated lamp life" and "lifetime"/"life" to be based on a large group of lamps rather than a specific number of lamps. Further, the IES Lighting Handbook states that "rated lamp life" is when 50 percent of any large group of lamps is expected to have failed and that it is a statistically determined estimate of the median operational life. However, DOE notes that it must prescribe test procedures that provide consistent and reproducible results, and allow for comparison of represented values across basic models. Therefore, rather than allow any number of lamps to be used to determine the represented value of lifetime, DOE must specify a minimum sample size.

Commenters did not suggest a specific minimum sample size, and as proposed in the July 2015 NOPR, DOE is adopting a minimum sample size of 10 for testing the initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, lifetime, CCT, CRI, power factor, and standby mode power. DOE is requiring that the same sample of 10 units be used for testing these metrics, and that a minimum of three units from the same sample of units be tested for start time. (Due to the nature of the test, a unique sample set is required for rapid cycle stress testing.) Each of these metrics contribute to the overall performance of a CFL, and because they are fundamentally related, directly and/or indirectly impact each other. Therefore, the same set of sample units and sample size should result in more accurate measurements of all metrics, including lifetime. Manufacturers may, at their discretion, use a larger sample size to determine a representative value of lifetime if they believe it is warranted. However, the same sample set and size must also be used for testing initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, lifetime, CCT, CRI, power factor, and standby mode power; the total number of units in the sample set must be a multiple of two; and a minimum of three units from the sample set must be used for start time. If the same sample of units is not available for the testing of additional metrics for an existing model, the basic model must be retested using the same sample set for all metrics.

DOE notes that the statutory definition of lifetime does not include any mention of a statistical method that can be used and DOE is hesitant to allow for any statistical method to determine lifetime. Commenters did not provide explicit suggestions regarding any applicable statistical methods in their comments. In addition, neither the IES Lighting Handbook nor any other industry standard provides a specific statistical method that should be used to determine the lifetime of compact fluorescent lamps. Further, DOE notes that the median of a sample is a robust statistical descriptor of the central tendency of the sample (and thereby the population) that deals well with outlier values, which may be the case in lifetime testing of CFLs. Although other statistical tools can be used to describe the variance about the median or estimate adjusted median values if other attributes about the population are known (*e.g.,* the distribution is a Pareto distribution or a weighted median if the precision of each data point is known and is significantly variable), these more advanced statistical tools are unnecessary, as they would not provide a better description of the expected lifetime of the lamp, as defined by EPCA, than the median value.

Therefore, DOE finalizes its proposal in the July 2015 NOPR, that lifetime of a CFL be calculated as the operating time between first use and failure of 50 percent of the sample units; the sample size must be at least 10 units; and the represented value of lifetime must be the median time to failure of the sample (calculated as the arithmetic mean of the time to failure of the two middle sample units when the numbers are sorted in value order). DOE believes that this definition provides the appropriate specificity to produce consistent and repeatable results while aligning with EPCA's definition of "lifetime" and "life" as the "length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group." In order to provide a clear and consistent test procedure, DOE specifies "group" as a minimum sample size of 10 units for CFLs, but reiterates that manufacturers are not prevented from testing significantly more than 10 CFLs provided the total number tested is a multiple of two.

C. Amendments to Materials Incorporated by Reference at 10 CFR 430.3

In the July 2015 NOPR, DOE proposed to incorporate by reference ANSI C78.901–2014, IES LM–54–12, IES LM–65–14, and IES LM–78–07 industry standards and to extend the incorporation by reference of CIE 13.3–1995, CIE 15:2004, IES LM–66–14, and IEC 62301 into DOE's test procedure for CFLs in appendix W.

As noted in section III.A.1, DOE proposed in the July 2015 NOPR to incorporate by reference IES LM–54–12, IES LM–65–14, and IES LM–66–14 for appendix W for seasoning, time to failure measurements, and electrical and photometric measurements respectively. 80 FR 45727. In response to this proposal, both NEMA and OSI agreed with the incorporation of IES LM–54–12, IES LM–65–14, and IES LM–66–14. (NEMA, No. 9 at pp. 3, 8; OSI, No. 5 at pp. 2–3) The CA IOUs noted that the IES LM–54–12 removes the requirement of cycling during seasoning for metrics other than lifetime and did not agree with DOE's proposal to, accordingly, also remove the cycling requirements in its test procedure. (CA IOUs, No. 7 at p. 3) DOE is requiring cycling for all metrics, see section III.A.1 for further details. In this final rule, DOE incorporates by reference these test methods into 10 CFR 430.3 for appendix W or extends the incorporation by reference of these test procedures to appendix W.

As noted in section III.A.2.a, DOE also proposed in the July 2015 NOPR to incorporate by reference IESNA LM–78–07 for appendix W for measurements using an integrating sphere photometer. 80 FR 45731. DOE did not receive any comments related to incorporating IESNA LM–78–07. Therefore, in this final rule, DOE incorporates by reference this test method into 10 CFR 430.3 for appendix W.

As noted in section III.A.4.a, in the July 2015 NOPR DOE proposed incorporating CIE 13.3–1995 and CIE 15:2004 (3rd edition) for appendix W for measuring and calculating CRI and CCT respectively. 80 FR 45739. The CA IOUs were supportive of incorporating by reference both CIE 13.3–1995 and CIE 15:2004 (3rd edition). (CA IOUs, No. 7 at pp. 3–4) Therefore in this final rule, DOE extends the incorporation by reference of these test procedures to appendix W.

As noted in section III.A.5.b, in the July 2015 NOPR DOE proposed incorporating by reference ANSI C78.901–2014 for appendix W to include reference ballast specifications for non-integrated CFLs. 80 FR 45739. NEMA supported incorporating by reference ANSI C78.901–2014. (NEMA, No. 9 at pp. 6–7) Therefore in this final rule, DOE incorporates by reference this industry standard into 10 CFR 430.3 for appendix W.

As noted in section III.A.6, in the July 2015 NOPR, DOE proposed incorporating by reference IEC 62301 for appendix W for measuring standby mode energy consumption. 80 FR 45739. DOE did not receive any comments related to this proposal. DOE notes that 10 CFR 430.3 presently has two different versions of IEC 62301 incorporated. DOE is extending the incorporation by reference of the edition 2.0, 2011–01 version of IEC 62301 to appendix W.

D. Amendments to 10 CFR 430.23(y)

In the July 2015 NOPR, DOE proposed to revise and add text at 10 CFR 430.23(y) to reflect other proposed changes to the scope and applicability of DOE's CFL test procedures. 80 FR 45739. Specifically, the existing text at 10 CFR 430.23(y) indicates that, for MBCFLs, the initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40-percent of rated life, and lamp life must be measured, and the rapid cycle stress test conducted, in accordance with section 4 of appendix W of this subpart. DOE proposed to delete the text "medium base" to reflect the inclusion of additional CFL categories. *Id.* In addition, in the July 2015 NOPR, DOE also proposed to specify in 10 CFR 430.23(y) the relevant sections of appendix W to be used to measure the following metrics: Initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, CRI, CCT, power factor, time to failure, rapid cycle stress test, start time, and standby mode energy consumption. 80 FR 45739–45740.

Both NEMA and OSI submitted comments requesting that DOE retain the term "medium base" in the title of the term because they did not think non-integrated CFLs should be part of the test procedures. (NEMA, No. 9 at p. 7; OSI, No. 5 at p. 6) DOE did not receive any other comments related to this proposed modification. As DOE has stated previously, the test procedures that are the subject of this final rule address integrated and non-integrated CFLs in support of existing and potential standards, as well as requirements of FTC's Lighting Facts Label and ENERGY STAR Program Requirements for Lamps and Luminaires (see section II for further details). Therefore, in this final rule, DOE is removing the reference to "medium base" and specifying all applicable metrics for CFLs.

E. Amendments to Laboratory Accreditation Requirements at 10 CFR 430.25

In the July 2015 NOPR, DOE proposed to amend 10 CFR 430.25 to extend the laboratory accreditation requirements for MBCFL testing to additional CFL categories and metrics covered under the proposed new and amended test procedures. 80 FR 45740. Specifically, DOE proposed to replace the text "medium base compact fluorescent lamps" with the text "compact fluorescent lamps" and specify that if a manufacturer's or importer's laboratory is accredited, it may conduct the applicable testing. *Id.*

NEMA and OSI raised concerns that expanding testing in an accredited lab from MBCFLs to all CFLs would increase the testing burden, adding that non-integrated CFLs typically are not tested in accredited laboratories. Additionally, NEMA and OSI asked that this potential requirement be addressed in both the manufacturing impact analysis, as well as testing burden analyzed in the regulatory flexibility analysis. (NEMA, No. 9 at p. 9; OSI, No. 5 at p. 7)

Testing in accredited laboratories helps ensure that measurements are consistent and reproducible. Therefore, in this final rule, DOE removes the phrase "medium base" and specifies that if a manufacturer's or importer's laboratory is accredited, it may conduct the applicable testing in 10 CFR 430.25. See section IV.B for a discussion of test burden.

F. Clarifications to Energy Conservation Standard Text at 10 CFR 430.32(u)

MBCFL energy conservation standards are codified in a table at 10 CFR 430.32(u). Certain language in the

MBCFL energy conservation standards table provides clarification relevant to test procedures (*e.g.*, sampling, test methods, and test calculations). Although this clarifying language is not in conflict with the specifications in the test procedures for MBCFLs contained in appendix W and in 10 CFR 429.35, for simplicity DOE proposed to modify the text in the MBCFL energy conservation standards table to remove specific test procedure language and instead reference the relevant parts of the MBCFL test procedures. In addition, in the introductory paragraph of 10 CFR 430.32(u), DOE proposed to replace the text "bare lamp and covered lamp" with the text "bare or covered." DOE considered these revisions to be clarifications that do not modify the energy conservation standards. 80 FR 45740–45741.

NEMA and OSI in general agreed with separating the test procedure specifications from section (u) with certain exceptions discussed in the next sections. (NEMA, No. 9 at p. 9; OSI, No. 5 at p. 8) In this final rule, DOE retains the change to the first sentence in 10 CFR 430.32(u) to read as "A bare or covered (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006 . . ." Revisions to specific metrics in the table at 10 CFR 430.32(u) and related comments received are described in the subsequent sections.

1. Initial Lamp Efficacy

In the July 2015 NOPR, DOE proposed amending the first column of the table in 10 CFR 430.32(u) by replacing the seven instances of the text "lamp power" with the text "labeled wattage." 80 FR 45740. DOE proposed to use labeled wattage as that is the term DOE is using to define the wattage marked on the lamp that should be used to determine the applicable minimum efficacy requirement (see section III.A.3.f). DOE also proposed deleting the current text in footnote 1. *Id.*

NEMA and OSI recommended using the term "rated wattage" rather than "labeled wattage." (NEMA, No. 9 at p. 9; OSI, No. 5 at pp. 8–9) As discussed in section III.A.3.f, DOE disagrees with NEMA and OSI about using the term "rated wattage" because DOE believes it may cause confusion or be easily misinterpreted. Instead, DOE retains in this final rule the term "labeled wattage."

In the July CFL TP NOPR, DOE also proposed to remove the text from footnote 2 indicating that for multi-level or dimmable systems, measurements shall be at the highest setting, and acceptable measurement error is ±3 percent. NEMA and OSI suggested keeping the 3 percent measurement error for efficacy and extend it to all other parameters. (NEMA, No. 9 at p. 9; OSI, No. 5 at pp. 8–9) DOE has determined that a 3 percent tolerance is not necessary. DOE addresses measurement error in sample size, confidence limit, and de-rating values as provided in 10 CFR 429.35. Because this allowance for determining compliance with existing standards already exists in 10 CFR 430.32(u), the 3 percent tolerance for efficacy has been maintained but moved to 10 CFR 429.35.

2. Lumen Maintenance at 1,000 Hours

In the July 2015 NOPR, DOE proposed amending the text for 1,000-hour lumen maintenance in the second column of the table in 10 CFR 430.32(u), which indicates that the average of at least 5 lamps must have a minimum 90.0 percent of initial (100-hour) lumen output at 1,000 hours of rated life. DOE proposed to delete this text and only state the standard as ≥90.0 percent. DOE also provided specific other changes to the table to correspond with terminology in the amended test procedure. 80 FR 45740. DOE did not receive any comments regarding these specific changes. Therefore, in this final rule, DOE modifies 10 CFR 430.32(u) to remove test procedure text and to align the terminology with the amended test procedure.

3. Lumen Maintenance at 40 Percent of Lifetime

In the July 2015 NOPR, DOE proposed amending the text for lumen maintenance in the second column of the table in 10 CFR 430.32(u), which indicates 80.0 percent of initial (100-hour) rating at 40 percent of rated life (per ANSI C78.5 Clause 4.10). 80 FR 45740–45741. DOE proposed to delete this text and state only the standard as ≥80.0 percent and other modifications to the table to read lumen maintenance at 40 percent of lifetime. *Id.* DOE did not receive any comments regarding these specific changes. Therefore, in this final rule, DOE modifies 10 CFR 430.32(u) to remove test procedure text and to align the terminology with the amended test procedure. In addition, for clarity DOE includes a footnote on the term "lifetime" that states "Lifetime refers to lifetime of a compact fluorescent lamp as defined in 10 CFR 430.2."

4. Rapid Cycle Stress Test

In the July 2015 NOPR, DOE proposed amending the text in the second column of the table for rapid cycle stress test in 10 CFR 430.32(u). 80 FR 45741. DOE proposed to delete the first two sentences of this text and to state that each lamp must be cycled once for every 2 hours of lifetime and at least 5 lamps must meet or exceed the minimum number of cycles. *Id.*

NEMA and OSI responded that the row in the table that codifies MBCFL energy conservation standards at 10 CFR 430.32(u) specifically retains the term "rated lifetime." (NEMA, No. 9 at p. 9; OSI, No. 5 at p. 8) In this final rule, DOE defines the term "lifetime of a compact fluorescent lamp" to be used in the new and amended test procedures (see section III.A.3.a for further details). Therefore, to align with the test procedures, DOE amends table 10 CFR 430.32(u) in this final rule to state that each lamp must be cycled once for every 2 hours of lifetime and at least 5 lamps must meet or exceed the minimum number of cycles. In addition, for clarity DOE includes a footnote on the term "lifetime" that states "Lifetime refers to lifetime of a compact fluorescent lamp as defined in 10 CFR 430.2."

5. Lifetime

In the July 2015 NOPR, DOE proposed amending 10 CFR 430.32(u) by deleting the term "average rated lamp life" and replacing it with the term "lifetime." 80 FR 45741. DOE also proposed to amend the text in the second column pertaining to lifetime to only state the standard as ≥6,000 hours and that DOE will no longer allow the use of statistical methods at 80 percent of rated life to determine the represented value of lifetime. *Id.* NEMA and OSI stated that the row should retain the text "≥6,000 hours as declared by the manufacturer on packaging." (NEMA, No. 9 at p. 9; OSI, No. 5 at p. 8) In this final rule, DOE defines the term "lifetime of a compact fluorescent lamp" and provides test procedures for the measurement and reporting of this value. To avoid potential confusion regarding how lifetime should be measured, DOE removes the language "as declared by the manufacturer on packaging" in this final rule. In addition, for clarity DOE includes a footnote on the term "lifetime" that states "Lifetime refers to lifetime of a compact fluorescent lamp as defined in 10 CFR 430.2."

G. Amendments to Certification Report Requirements

In the July 2015 NOPR, DOE recognized that testing of CFL lifetime and lumen maintenance at 40 percent of lifetime require considerably more time than testing of other required CFL metrics. DOE proposed to allow new basic models of CFLs to be distributed prior to completion of the full testing for lifetime and lumen maintenance at 40 percent of lifetime, as well as prior to completion for the rapid cycle stress test because it is also dependent on lifetime. DOE's proposal was similar to other lighting technologies in that prior to distribution of the new basic model of CFL, manufacturers may submit an initial certification report based on estimated values of lifetime, 40 percent lumen maintenance, and rapid cycle stress test if the testing for lifetime is not complete. In such a case, the certification report would be required to specifically describe a prediction method that would be generally representative of the methods specified in appendix W. Manufacturers would be required to maintain relevant records, in accordance with 10 CFR 429.71, of the development of all estimated values and any associated initial test data. DOE also proposed amendments to the certification report to address the new and additional metrics that are being adopted in this final rule and are required for compliance with DOE's energy conservation standards. 80 FR 45741.

Philips commented that there currently are no restrictions with respect to the prediction models that may be used, so selection of the prediction model should be at the discretion of the manufacturer, and should only be disclosed to defend it to the DOE if challenged. (Philips, No. 6 at p. 4) NEMA and OSI similarly objected to the proposed requirements that manufacturers must disclose the prediction method and that it must represent one of the methods in appendix W. (NEMA, No. 9 at p. 9; OSI, No. 5 at p. 8; Philips p. 4)

The EEAs opposed DOE's proposal to allow manufacturers to estimate values for lifetime and rapid cycle stress prior to the completion of testing for time to failure, and particularly opposed the proposal that manufacturers be permitted to develop their own prediction methods for these estimates. (EEAs, No. 8 at p. 5) The EEAs stated that, by the time DOE received a full certification report showing that a given model did not meet the standard, manufacturers may be retiring the model and it will have been in commerce for a significant portion of its intended market life. The EEAs also suggested it may be theoretically possible to extrapolate lumen depreciation provided a common approach based on industry standard methods is used. (EEAs, No. 8 at p. 5)

Based on a review of the market, DOE found that most CFLs have a lifetime of 10,000 hours or longer and therefore, it may take more than a year to complete the necessary lifetime measurements. Therefore, to accommodate such long testing time, DOE believes that the use of estimated values for lifetime, lumen maintenance at 40 percent of lifetime, and rapid cycle stress testing are required. In response to the concerns of CA IOUs and the EEAs regarding the accuracy of such methods, DOE notes that DOE is not aware of any industry-wide accepted method for extrapolation of lumen depreciation for CFLs. Therefore, DOE is not requiring a specific prediction method for estimated values. However, DOE is requiring manufacturers to specify the method of prediction and that this method must be generally representative of DOE's test procedures for CFLs in appendix W. In addition, DOE is adding a requirement to the certification report that manufacturers must state whether values of lifetime, lumen maintenance at 40 percent of lifetime, and rapid cycle stress testing are based on estimated or measured values. DOE believes that, as noted by CA IOUs and EEAs, such information regarding the prediction methods used by manufacturers is necessary in order to verify that such predictions are valid and based on sound engineering judgement and calculations. Therefore, DOE believes that these requirements regarding the prediction method are adequate and necessary to ensure estimated values are reliable, representative, and consistent with test conditions, setup, and methods specified in DOE's test procedures for CFLs.

In addition, DOE notes that there is precedent for allowing products to be distributed in commerce based on estimated values. DOE allows initial certification reports for GSFLs and incandescent reflector lamps and also requires that manufacturers include a description of any testing or analysis the manufacturer performed. 10 CFR 429.12(e)(2) Under EPCA, MBCFLs may be marketed before completion of testing for lifetime and lumen maintenance at 40 percent of lifetime with supporting engineering predictions and analysis. 42 U.S.C. 6293(b)(12)(C).

Therefore, by allowing new basic models of CFLs to be distributed in commerce based on estimated values determined by prediction methods representative of DOE's test procedures for CFLs, DOE is ensuring products are available to consumers in a reasonable time while still requiring a rigorous process to ensure that all representative values are as accurate and precise as possible. In this final rule, DOE also clarifies that for existing basic models that require retesting, manufacturers may submit an initial certification report based on estimated values of lifetime, 40 percent lumen maintenance, and rapid cycle stress if the testing for lifetime is not complete.

The EEAs also recommended that DOE take action to enhance industry adherence with the CFL test procedure. They noted that under two CFL verification testing programs, ENERGY STAR and the Program for the Evaluation and Assessment of Residential Lighting (PEARL), a significant number of ENERGY STAR-qualified CFLs were found to be noncompliant with ENERGY STAR program requirements. The EEAs noted that these results varied between brands, but the overall consumer dissatisfaction and perception of poor CFL quality applied throughout the industry, regardless of a particular brand's performance. The EEAs suggested DOE collect and analyze performance data for CFLs sold in the retail distribution chain and adopt an enhanced enforcement strategy focused on brands, rather than only basic models. The EEAs recommended that DOE require manufacturers to submit data that support the enhanced enforcement strategy and to tighten data submission requirements to prevent manufacturers from submitting incomplete or incorrect test data that may misrepresent the quality of products being verified. (EEAs, No. 8 at pp. 6–7)

DOE currently has enforcement procedures in place for, among many other products, CFLs that are subject to energy conservation standards. For more information please refer to DOE's "Implementation, Certification, and Enforcement" Web site at *http://energy.gov/eere/buildings/implementation-certification-and-enforcement.*

Additionally in the July 2015 NOPR, DOE proposed that if, prior to completion of testing, a manufacturer ceases to distribute in commerce a basic model, the manufacturer must submit a full certification report and provide all of the information listed in 10 CFR 429.12(b), including the product-specific information required by 10 CFR 429.35(b)(2), as part of its notification to DOE that the model has been discontinued. 80 FR 45741. DOE did not receive any comments regarding this proposal and adopts it in this final rule. This provision will help alleviate potential issues envisioned by the EEAs that models will be retired without any accountability for compliance with the standards.

Further, for this final rule, DOE separated the certification report requirements for medium base CFLs that are showing compliance with the current energy conservation standards, integrated CFLs that would need to show compliance with potential GSL energy conservation standards, and non-integrated CFLs which may need to show compliance with potential GSL energy conservations standards. DOE separated these requirements in order to clarify that different values must be reported when certifying compliance to existing standards in 430.32(u) (as it appears in 10 CFR parts 200–499 edition revised as of January 1, 2016) for medium base CFLs; general service lamp energy conservation standards (if adopted) for integrated CFLs; and general service lamp energy conservations standards (if adopted) for non-integrated CFLs.

H. Amendments to 10 CFR 429.35

The text of the 10 CFR 429.35 title currently addresses bare or covered (no reflector) MBCFLs. DOE proposed in the July 2015 NOPR to remove this text and identical text found in § 429.35(a)(1) and (a)(2), and replace it with the text "compact fluorescent lamps" to reflect the inclusion of additional CFL categories. 80 FR 45741. DOE did not receive any comments on this proposal and therefore adopts this change in the final rule.

In addition, DOE also proposed to clarify and amend the sampling requirements for existing and new metrics, provide clarification on reuse of samples, and address failures of sample units. 80 FR 45741. DOE concluded that these clarifications and amendments would not have a significant effect on measured values or test burden. *Id.* In general, the EEAs were supportive of DOE's proposed changes to sampling requirements. (EEAs, No. 8 at pp. 2–4) DOE received comments related to the specific proposals to 10 CFR 429.35 and discusses these in detail in the following sections.

1. Initial Lamp Efficacy and Lumen Maintenance

Currently, in 10 CFR 429.35, sampling requirements are specified for efficacy, 1,000-hour lumen maintenance, and lumen maintenance at 40 percent of rated life. In the July 2015 NOPR, DOE proposed to replace the terms efficacy, 1,000-hour lumen maintenance, and lumen maintenance, respectively, with the terms initial lamp efficacy, lumen maintenance at 1,000 hours, and lumen maintenance at 40 percent of lifetime. 80 FR 45741–45742.

DOE also proposed to create a separate sampling requirement section for initial lamp efficacy in order to include an allowance of 3 percent tolerance on the represented value of this metric (see section III.F.1). Specifically, DOE proposed that, to account for measurement error, the represented value for initial lamp efficacy of MBCFLs may include 3 percent added to the lower of (a) the mean of the sample and (b) the lower 97.5 percent LCL of the true mean divided by 0.95. For example, if the lower value is the mean of the sample at 60.0 lumens per watt, then the 1.03 multiplier could be applied to yield a represented value for initial lamp efficacy of up to 61.8 lumens per watt. DOE concluded that this clarification does not result in a significant impact to measured values. DOE received comments on this proposal and addresses them in section III.F.1. In this final rule, DOE adopts the proposal regarding the 3 percent tolerance for initial lamp efficacy as described in this preamble.

Additionally, DOE proposed to expand the sample size from a minimum of 5 units to a minimum of 10 units for initial lamp efficacy, 1,000 hour lumen maintenance, and lumen maintenance at 40 percent of lifetime. 80 FR 45742. Further DOE proposed that if more than 10 units are tested as part of the sample for these three metrics, the total number of units must be a multiple of two so that an equal number of units can be tested base up and base down. DOE also notes that, because the sample set must be the same for all metrics, if the sample size is greater than 10, the same larger sample set must be used for the other metrics required to utilize the sample set (see III.H.5).

In the July 2015 CFL TP NOR, DOE also proposed that half of the units be tested base up and half of the units be tested base down, rather than testing all units base up as currently required. Testing in both the base up and base down positions provides an accurate representation of performance under both orientations since the end-use orientation is unknown. 80 FR 45742.

OSI raised concerns that adding another orientation besides base up will effectively double testing costs by increasing the number of units under test as well as increasing the infrastructure required. OSI also stated that in many cases, manufacturers have evaluated products only in the base up position. (OSI, No. 5 at p. 8) NEMA stated that modifying the orientation specification would change measured values and add test burden. (NEMA, No. 9 at pp. 3, 8)

Test burden is discussed in section IV.B. DOE notes that ENERGY STAR has required both a sample size of 10 and that half be tested in the base up position and the other half in the base down position orientations since version 3.0 of the "ENERGY STAR® Program Requirements for CFLs", which was finalized in 2003.[22] CA IOUs commented (and DOE verified) that according to ENERGY STAR 64 percent of integrated CFLs shipped in 2014 were ENERGY STAR certified. (CA IOUs, No. 7 at p. 4) Therefore, a majority of integrated CFLs have already been evaluated in both orientations.

NEMA and OSI stated that if testing of non-integrated CFLs is necessary, that these lamps should only be tested in the base up position as base down testing is not representative of actual usage. Further, both NEMA and OSI raised concerns about the burden related to testing non-integrated CFLs in both base up and base down orientations. (NEMA, No. 9 at p. 10; OSI, No. 5 at p. 8)

Test burden is discussed in section IV.B. Contrary to the assertion of NEMA and OSI that base down orientation would not be representative of actual use for non-integrated CFLs, DOE has identified fixtures for non-integrated CFLs classified as "chandelier," "decorative pendant," and "sconce/marker light" all with base down lamp orientations.[23] DOE retains in this final rule that, for both integrated and non-integrated CFLs, half the sample size be tested in the base up and the other half in base down orientation.

In the July 2015 NOPR, DOE also proposed to specify in 10 CFR 429.35 that any represented value of lumen maintenance at 40 percent of lifetime must be based on a lifetime value that is equal to or greater than the represented value of lifetime. DOE did not receive any comments regarding this proposal; therefore, DOE adopts it in this final rule.

2. Rapid Cycle Stress Testing

In the July 2015 NOPR, DOE proposed to restrict the sample size for rapid cycle stress testing to an exact number of units. 80 FR 45742. Currently, the sampling size for rapid cycle stress testing is specified at 10 CFR 429.35(a)(2)(ii) as no less than 6 unique units. DOE proposed specifying that exactly 6 unique units must be tested per basic model for rapid cycle stress testing with the rationale that this new specification will minimize confusion and improve consistency in the number of samples used for testing. 80 FR 45742. This new sampling requirement is consistent with the sample size requirement for rapid cycle stress testing in the ENERGY STAR Lamps Specification V2.0. DOE did not receive any comments related to the sample size for rapid-cycle stress testing and therefore adopts the requirement in this final rule that the sample size for rapid-cycle stress testing be 6 unique units.

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[22] Version 3.0 of the CFL lamps specification was superseded by other versions of the CFL lamp specification and then ultimately the CFL specification was replaced by the overall lamp specification. However, the original specification can be found at *http://www.energystar.gov/products/spec* by searching lighting, light bulbs (CFLs) and historic in status.

[23] DOE conducted a search using eLumit, an independently owned, industry-neutral company that is a lighting search and specification tool for design professionals. *www.eLumit.com.*

NEMA and OSI stated that lamp orientation has little effect on the rapid cycle stress testing and suggested that testing half of the lamps base up and half base down would be an additional burden that would not affect the results of the rapid-cycle stress test. (NEMA, No. 9 at p. 10; OSI, No. 5 at p. 8)

Rapid cycle stress testing is intended to stress the lamp's electrical components to evaluate the performance of a lamp undergoing repeated cycling. Lamp orientation affects the thermal conditions of the lamp. Because temperature has some impact on the performance of a lamp's electrical components, testing in both base up and base down orientations will provide a more comprehensive set of results for assessing rapid cycle stress. Therefore, in this final rule, DOE specifies in appendix W that for rapid cycle stress testing half of the units must be tested in the base up position, and half of the units must be tested in the base down position, but that if the position is restricted by the manufacturer, units must be tested in the manufacturer-specified position.

In the July 2015 CFL NOPR, DOE also proposed a new paragraph in 10 CFR 429.35 that any represented value of rapid cycle stress test surviving units must be based on a lifetime value that is equal to or greater than the represented value of lifetime. 80 FR 45742. DOE did not receive any comments on this proposal and therefore, adopts it in this final rule.

3. Lifetime of a Compact Fluorescent Lamp

In the July 2015 NOPR, DOE proposed clarifying the sampling requirements for the lifetime of a CFL, including the position in which lamps are tested. Specifically DOE proposed to align the sampling requirements for lifetime with the sampling requirements for initial lamp efficacy and lumen maintenance. DOE clarified that if more than 10 units are tested as part of the sample, the total number of units must be a multiple of two and the time to failure value as determined per section 3.3 of appendix W must be used to determine the represented value of lifetime. 80 FR 45742. DOE did not receive any comments regarding this proposal and therefore, in this final rule, adopts it as proposed.

4. New Metrics

As discussed in section III.A.4 in this document, DOE establishes test procedures for measuring new metrics including CRI, power factor, CCT, start time, and standby mode energy consumption. For CRI, power factor, CCT, and standby mode power, in the July 2015 NOPR, DOE proposed requiring a sample size of at least 10 (half base up and half base down). Testing in both the base up and base down positions provides an accurate representation of performance under both orientations since the end-use orientation is unknown. DOE also proposed specifying within the sampling requirements for CRI, power factor, CCT, and standby mode power, that, if more than 10 units are tested as part of the sample, the total number of units must be a multiple of two.

DOE proposed to specify the same sampling requirements for CRI and power factor as those specified for initial lamp efficacy, lumen maintenance at 1,000 hours, and lumen maintenance at 40 percent of lifetime in 10 CFR 429.35. Thus, for CRI and power factor, DOE determined that representations of these metrics be equal to the lesser of the mean of the sample and the 97.5 percent LCL divided by 0.95. Since higher values are desirable for CRI and power factor, use of the lesser of the mean and LCL ensures that a representative value is reported.

Because there are no targeted upper or lower bound values for CCT, DOE proposed to specify in 10 CFR 429.35 that representations of CCT be the mean of the sample.

For the start time, DOE proposed a sample size of three units in 10 CFR 429.35. DOE believes this is an appropriate sample size to determine an accurate value for the lamp start time. Further, DOE proposed that for start time, representations be equal to the greater of the mean of the sample and the 97.5 percent upper confidence limit (UCL) divided by 1.05, since lower values are desirable.

For standby mode power, DOE proposed to specify in 10 CFR 429.35 a sample size of at least 10 units, consistent with that used for the active mode power metric and initial lamp efficacy. DOE determined that representations should be equal to the greater of the mean of the sample and the 97.5 percent UCL divided by 1.05, as lower values are desirable.

DOE notes that the current sampling requirements already require 10 units for determining lifetime, and that several of these metrics (*e.g.*, CRI, CCT, and power factor values) can be determined in the course of lifetime testing. Additionally, this sampling plan is consistent with the sampling requirements for these metrics in the ENERGY STAR Lamps Specification v2.0.

OSI stated that power factor, CRI, and start time requirements are not necessary and thus the proposed sampling requirements should not be included. (OSI, No. 5 at p. 9) As noted previously, DOE is establishing test procedures that include sampling requirements for power factor, CRI, and start time, in support of the ongoing GSL standards rulemaking (see section II for further details). Therefore, DOE retains the sampling plan for these metrics in this final rule. However, DOE notes that power factor and start time measurements are not applicable to or required for non-integrated CFLs.

NEMA and OSI also commented on DOE's use of the lower confidence level (LCL), UCL, and statistical divisor in determining represented values. They argued that DOE's current methodology is biased and statistically incorrect and recommended DOE use only the sample mean as it is the best estimator of the population parameters. (NEMA, No. 9 at p. 10; OSI, No. 5 at p. 9)

Confidence limits are a valid statistical method used to understand the accuracy of the sample mean. By using confidence limits, DOE is able to implement a conservative approach, ensuring that products on the market perform at least as well as represented by manufacturers, by requiring the lower confidence limit value if it is less than the sample mean when higher values are desirable and requiring the upper confidence limit if it is greater than the sample mean when lower values are desirable. DOE finds this methodology more appropriate in determining represented values than relying only on the sample mean. Therefore, in this final rule, DOE retains the confidence limit methodology for existing metrics and implements it for new metrics, where applicable.

DOE also clarifies that on or after 180 days after publication of this final rule, manufacturers of MBCFLs must use the test procedures established in this final rule to certify compliance with existing standards and for any representations regarding energy use or efficiency, and manufacturers of other CFLs without existing standards must use the test procedures for any representations regarding energy use or efficiency. As of the compliance date of any standards adopted in the GSL ECS rulemaking, manufacturers must use the test procedures established in this final rule to certify compliance with GSL standards, if adopted. (See section III.J for further details regarding effective dates.) Further, in this final rule, DOE specifies sampling requirements specific to metrics of integrated CFLs and non-integrated CFLs.

5. Reuse of Samples

In the July 2015 NOPR, DOE proposed to specify in 10 CFR 429.35 that the same sample of units must be used to determine initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, lifetime, CRI, CCT, power factor, start time, and standby mode power. 80 FR 45743.

NEMA and OSI commented that reuse of samples should not be mandatory except in the case of lumen maintenance values where a ratio is required involving the initial measurements. NEMA and OSI stated that the manufacturer should be permitted to use representative samples and make measurements in parallel to reduce the time burden of measurement. OSI also stated that this requirement would preclude large sample size life tests in which the lamps would run uninterrupted until failure. NEMA added that it is restrictive to require the same samples for all tests completed for one basic model. (NEMA, No. 9 at p. 10–11; OSI, No. 5 at p. 9) Philips commented that manufacturers should be allowed to test larger populations for lifetime than for photometric-related measurements. (Philips, Public Meeting Transcript, No. 4 at p. 90) GE recommended that, rather than requiring the reuse of a sample across all tests, DOE should require that all test units must be drawn from the same population. (GE, Public Meeting Transcript, No. 4 at pp. 91–95)

By requiring the same sample set to be used across all metrics, DOE ensures sample units are not selected to obtain favorable measurements for one metric over others and that all representative values are internally consistent and representative of the population (to the extent the selected test sample is representative of the population). The lifetime measurement is just an extension of the other photometric measurements taken at different points in time of the same lamp. DOE believes taking these photometric measurements such as efficacy, lumen maintenance, and lifetime on the same set of lamps will result in a better characterization of the photometric performance of the population by minimizing the variation that may be introduced into the measurement by using different test units for different metrics. Hence, the requirement of the same sample set allows for a more accurate assessment of a basic model's compliance with standards for all metrics. Therefore, DOE retains in this final notice that the same sample of units must be used as the basis for representations for standby power, power factor, CCT, CRI, initial lumen output, input power, initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, and lifetime; no less than three units from the same sample of units must be used when testing for the start time; and exactly six unique units must be used for rapid cycle stress testing. Additionally, in this final rule, DOE specifies that sample units must be comprised of production units. For those basic models that currently make representations of the energy efficiency metrics described in this test procedure, including medium base CFLs, manufacturers must ensure that representations, including certifications, are made in accordance with the DOE test procedure, including sampling plan. While DOE believes manufacturers have been following these testing procedures, including sampling plans, for making current representations, DOE clarifies that a manufacturer may need to retest in the event that the current representations are not supported by the test when measured in accordance with the method being adopted in this final rule, including the sampling plan.

6. Lamp Failures

In the July 2015 NOPR, DOE also clarified that, if a lamp breaks, becomes defective, fails to stabilize, exhibits abnormal behavior such as swirling or stops producing light, prior to the end of the seasoning period, the lamp must be replaced with a new unit. 80 FR 45732. If a lamp fails after the seasoning period, the lamp's measurements must be included when calculating represented values. *Id.*

The CA IOUs stated that lamps that fail during lamp seasoning (''early failure lamps'') should also be maintained in the sample and new units should be added until the required units pass the seasoning period. The CA IOUs stated that not including units that fail during the seasoning period in the sample set will result in inaccurate measurements of metrics. The CA IOUs gave the example where a manufacturer might test 100 units, 90 of which would fail during seasoning, and report the lifetime of the lamp based on the 10 units that passed. The CA IOUs asserted that these early failures cause consumer dissatisfaction related to CFL lifetime. Citing an ENERGY STAR report[24] the CA IOUs stated that the majority of verification testing failures for CFLs in ENERGY STAR are related to tests for product lifetime (*e.g.*, interim life test, lumen maintenance, and rapid cycle stress tests). Additionally, the CA IOUs and the EEAs cited a study conducted by PEARL that found that 2 to 12 percent of the CFLs tested failed to reach 40 percent of rated life. (CA IOUs, No. 7 at pp. 1–3; CA IOUs, Public Meeting Transcript, No. 4 at pp. 38–41, 89)

The CA IOUs further stated that the number of ''early failures'' should be recorded along with the time and manner of failure. The CA IOUs also suggested that DOE require the entire sample set to be discarded if one unit fails during seasoning in order to incentivize manufacturers to produce higher quality products. Additionally, the CA IOUs recommended DOE evaluate data on early CFL failures to verify that the majority of early failures occur in the first 100 hours of operation and increase this time interval for recording early failures, if necessary. (CA IOUs, No. 7 at p. 3)

The EEAs supported CA IOUs written comments related to early failures, noting that ignoring early failures would make it difficult to develop metrics to address these failures. The EEAs added that lamps that fail during seasoning would fall in the category of manufacturing defect, a category of lamp failure identified in IES LM–65–14. (EEAs, No. 8 at p. 3) GE (with Philips concurring) agreed that failures of lamps ''right out of the box'' represented a manufacturing defect and stated it is appropriate to remove these from the sample during seasoning. (GE, Public Meeting Transcript, No. 4 at p. 38, Philips, Public Meeting Transcript, No. 4 at p. 38) Westinghouse stated that its products were not experiencing industry failures within the warranty period, and definitely not within the first 100 hours. Westinghouse added that lamps that did fail early would not pass DOE's verification testing and therefore, would not be available on the market. (Westinghouse, Public Meeting Transcript, No. 4, at pp. 40–41)

DOE evaluated the reports cited by CA IOUs and EEAs in their comments, specifically, ENERGY STAR verification test report of 2014 and the study conducted by PEARL. While both of these reports indicate that there are lamps that fail to meet metrics related to product lifetime, neither support that these failures are due to lamps failing in the first 100 hours of the lamp lifetime. Both documents only report failures before 40 percent of rated life as one aggregated value with no data on actual time of failure. Further, DOE evaluated results of a study conducted by the California Public Utility Commission that provided data on the number of hours before failure for 72 models of MBCFLs with a sample set of 3601 lamps that were tested on 10 different cycling times. Of the 360 lamps tested on the 180 minute cycling time, the same as the cycling time for lifetime testing, none of the lamps failed during the first 100 hours of testing.[25]

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[24] Overview of CFL Verification Testing Results Jan 2010-Apr 2014. EPA. 2014. *www.energystar.gov/sites/default/files/specs/Presentation%20Verification%20Testing%207-31-14.pdf.*

Based on available data, DOE finds that it is not common for CFLs to fail before the seasoning period; therefore, the requirement that a sample unit be replaced if it fails during seasoning will not result in appreciably less accurate measurements. DOE notes that its proposed method for addressing lamp failures aligns with ANSI C78.5–2003,[26] which provides specifications on integrated CFLs and is referenced by IES LM–65–14 (incorporated by reference). Section 6.1.2 of ANSI C78.5–2003 notes that ". . . if a unit fails to stabilize or exhibits abnormal behavior, the lamp shall be discarded. Testing shall resume with a suitable replacement specimen procured and prepared in the same manner as the original specimen. The use of replacement specimens shall be documented in the test report." Further, section 3.1 of IES LM–65–14 states that lamp failures due to manufacturing defects are reported but not included in the calculation of lamp lifetime. Therefore, in this final rule, DOE retains the requirement that, if a lamp breaks, becomes defective, fails to stabilize, exhibits abnormal behavior such as swirling or stops producing light prior to the end of the seasoning period, the lamp must be replaced with a new unit. DOE also notes that ANSI C78.5–2003 and IES LM–65–14 recommend respectively, recording replacement of sample units and failures. Because such data can be informative, in this final rule, DOE adds the requirement that manufacturers must provide in the certification report, the number of sample units replaced within each unique sample set used in determining represented values and believes that such information could be helpful to consumers or interested parties in determining more reliable CFL models, as requested by the CA IOUs and EEAs.

I. Federal Trade Commission (FTC) Labeling Requirements

As discussed throughout this document, the CFL test procedure adopted in this final rule is intended, among other things, to support FTC's Lighting Facts Labeling program. Accordingly, in the July 2015 NOPR, DOE proposed adding provisions to 10 CFR 429 for initial lumen output, input power, CCT, estimated annual energy cost, and life (in years) for MBCFLs to enable FTC to allow manufacturers to submit data through DOE's Compliance Certification Management System (CCMS) for the FTC labeling requirements. 80 FR 45743. Except for CCT, these metrics are already being determined as part of the existing test procedures in appendix W. For example, initial lumen output and input power (a standalone metric and also part of the calculation for estimated annual energy cost) are the two quantities required to calculate the existing metric of initial lamp efficacy. Furthermore, the life (expressed in years) is determined by dividing the existing metric of lifetime by an average operating hour value specified by FTC.

NEMA stated that the test procedures should not be developed for lamps not regulated by FTC. NEMA highlighted the fact that FTC's label does not cover non-integrated CFLs and reiterated that non-integrated CFLs should not be included in the test procedure. (NEMA, No. 9 at p. 2)

As noted previously, the test procedures that are the subject of this rulemaking are intended to support existing and potential standards for CFLs and ENERGY STAR lamp and luminaire specifications, as well as support the FTC Lighting Facts labeling requirements. DOE did not receive any other comments related to the proposed provisions for DOE to collect FTC Lighting Facts labeling data through DOE's CCMS. Therefore, in this final rule, DOE adopts the provisions as described in this preamble.

J. Effective Date

In the July 2015 NOPR, DOE specified that the effective date for the amended test procedures would be 30 days after publication of the final rule in the **Federal Register.** 80 FR 45743. Representations based on the amended and new test procedures would be required as of 180 days after publication of the final rule. (42 U.S.C. 6293(c)(2)) DOE received several comments regarding these dates and certifications of compliance for products according to the new and amended test procedures.

NEMA and OSI asked DOE to provide clarification on the need to retest lamps that are already certified in the CCMS database, or if industry is allowed to use existing test reports for current products. (NEMA, No. 9 at p. 2; OSI, No. 5 at p. 2) OSI also sought clarification from DOE regarding the disposition of existing inventory if retesting is required for current products. (OSI, No.5 at p. 2)

Representations related to the metrics addressed in the amended Appendix W must reflect testing in accordance with Appendix W not later than February 27, 2017. Representations are not required by DOE for CFLs not currently subject to standards (although they may be required by the FTC). In contrast, certifications of compliance are required for medium base CFLs, which are currently subject to standards; those certifications must reflect testing in accordance with the amended Appendix W as of the next annual certification date or February 27, 2017, whichever is later. DOE also reiterates, as noted throughout this document, that the new and amended test procedures are not anticipated to result in changes in measured energy consumption or other performance metrics for any products that are currently subject to energy conservation standards and thus required to certify compliance to DOE. Therefore, existing medium base CFLs may not require re-testing if their representative values continue to be valid.

Certifications of compliance for basic models of CFLs with any new and/or amended energy conservation standards must reflect testing in accordance with Appendix W as amended in this final rule, prior to distribution in commerce, and annually thereafter by the filing date specified in 10 CFR 429.12(d); however, no basic model is required to be certified until it is required to comply with energy conservation standards. Therefore, for CFLs not currently subject to standards, the initial certification report must be filed by the compliance date of any new energy conservation standards.

NEMA and OSI stated that due to the additional testing required by the new and amended test procedures established in this final rule, it was not practical to certify all lamps to the new and amended test procedures by the next annual filing date for certification.

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[25] CFL Laboratory Testing Report: Results from a CFL Switching Cycle and Photometric Laboratory Study. December 9, 2015. California Public Utilities Commission.

[26] *American National Standard For Electric Lamps: Specifications for Performance of Self-Ballasted Compact Fluorescent lamps* (approved 2003).

In particular, OSI cited changes to the sample size and orientation; and NEMA added testing for rapid cycle stress. NEMA and OSI noted that publication of the final rule for the ongoing GSL standards rulemaking is expected before the end of 2017. They requested that until March 1, 2018, only new CFLs certified after the publication of this test procedure final rule be required to be tested under the new and amended CFL test procedures established by it; and after March 1, 2018, all CFLs must be tested under the new and amended CFL test procedures. NEMA and OSI reasoned this would minimize testing burden on industry for current products that are expected to be rendered obsolete by the ongoing GSL standards rulemaking. (NEMA, No. 9 at p. 11; OSI, No. 5 at p. 9)

The change in sample size and orientation requirements adopted in this final rule align with ENERGY STAR Lamps Specification V2.0 (effective January 1, 2017) and its previous version, with the only exception being that DOE is requiring 3 units tested base up, and 3 units tested base down for the rapid cycle stress test. DOE notes that two thirds of compact fluorescent lamps already comply with ENERGY STAR, which already requires 10 units to be tested, and does not believe the change in orientation requirements for the rapid cycle stress test would require an extensive change to the existing test setup. While DOE is adopting test procedures for additional metrics, several of these metrics (*e.g.,* CCT, CRI, power factor) can be determined simultaneously with existing metrics such as efficacy, and therefore testing new metrics would not require a significant amount of additional time to conduct.

Further for new basic models or existing basic models that require retesting because their certified values are no longer valid, if a metric requires a longer period of time to test (lifetime, lumen maintenance at 40 percent of lifetime), DOE allows for the reporting of estimated values until the testing is complete. Therefore, DOE finds that manufacturers should be able to certify and make representations of all applicable CFL products within 180 days of the publication of this final rule. Hence, the effective date for the new and amended test procedures discussed in this final rule will be 30 days after publication of this document in the **Federal Register.** Representations must reflect testing in accordance with the new and amended test procedure not later than 180 days after publication of the final rule. (42 U.S.C. 6293(c)(2))

After the effective date and prior to 180 days following publication of this CFL test procedure final rule, manufacturers may voluntarily begin to make representations with respect to the energy use or efficiency of CFLs (including but not limited to MBCFLs) using the results of testing pursuant to this final rule. On or after 180 days after publication of this final rule, any representations including certifications of compliance (if required), made with respect to the energy use or efficiency of CFLs (including but not limited to MBCFLs) must be made in accordance with the results of testing pursuant to the new and amended test procedures.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute "significant regulatory actions" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IFRA) for any rule that by law must be proposed for public comment and a final regulatory flexibility analysis (FRFA) for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel.*

DOE reviewed this final rule, which amends and establishes new test procedures for CFLs, under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows.

The Small Business Administration (SBA) considers a business entity to be a small business, if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121. These size standards and codes are established by the North American Industry Classification System (NAICS). Manufacturing of CFLs is classified under NAICS 335110, "Electric Lamp Bulb and Part Manufacturing." The SBA sets a threshold of 1,250 employees or less for an entity to be considered as a small business for this category.

DOE conducted a focused market survey reviewing information from trade associations such as NEMA; ENERGY STAR programs; market reports (*e.g.* Hoover's reports); and individual company Web sites to identify companies that sell products covered by this rulemaking. DOE then determined the number of small businesses based on SBA definition. In its estimation of a company's number of employees, DOE also includes any parent companies and/or subsidiaries. In the July 2015 NOPR, DOE identified 26 manufacturers that would be considered small businesses. 80 FR 45744. Westinghouse indicated the number of small businesses identified by DOE was less than expected, noting that there are only a handful of large-size businesses in the market. (Westinghouse, Public Meeting Transcript, No. 4 at pp. 134–136)

For this final rule, DOE reviewed its estimated number of small businesses. DOE updated its list of small businesses by reviewing information from trade associations such as NEMA; ENERGY STAR programs; market reports (*e.g.* Hoover's reports); and individual company Web sites to identify companies that sell CFLs in the United States. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a "small business," or are completely foreign owned and operated. DOE determined that there are no small businesses that maintain domestic production facilities for CFLs.

Based on the criteria outlined earlier and the reasons discussed above, DOE certifies that the test procedures adopted in this final rule would not have a significant economic impact on a substantial number of small entities, and the preparation of a final regulatory flexibility analysis is not warranted. DOE has submitted a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of CFLs must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including CFLs. See generally 10 CFR part 429, subpart B. The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a current valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE is approving test procedure amendments that it expects will be used to develop and implement future energy conservation standards for CFLs. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule amends an existing rule without affecting the amount, quality or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) Clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Public Law 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

This final rule incorporates by reference the testing methods and modifications to the test procedures that are contained in the following commercial standards:

(1) ANSI C78.901–2014, "American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics," 2014;

(2) CIE 13.3–1995, "Technical Report: Method of Measuring and Specifying Colour Rendering Properties of Light Sources," 1995;

(3) CIE 15:2004, "Technical Report: Colorimetry, 3rd edition," 2004;

(4) IES LM–54–12, "IES Guide to Lamp Seasoning," 2012;

(5) IES LM–65–14, "IES Approved Method for Life Testing of Single-Based Fluorescent Lamps," 2014;

(6) IES LM–66–14, "IES Approved Method for the Electrical and Photometric Measurements of Single-Based Fluorescent Lamps," 2014;

(7) IESNA LM–78–07, :IESNA Approved Method for Total Luminous Flux Measurement of Lamp Using an Integrated Sphere Photometer," 2007; and

(8) IEC Standard 62301 (Edition 2.0, 2011–01), "Household electrical appliances—Measurement of standby power," 2011.

Although these test procedures are not exclusively based on these industry testing standards, some components of the DOE test procedure adopt definitions, test parameters, and measurement techniques from them without amendment. The Department has evaluated these industry testing standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.*, that they were developed in a manner that fully provides for public participation, comment, and review). DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Description of Materials Incorporated by Reference

DOE incorporates by reference the test standard published by ANSI, titled "American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics," ANSI C78.901–2014. ANSI C78.901–2014 is an industry accepted test standard that specifies physical and electrical characteristics of non-integrated CFLs and is applicable to products sold in North America. It is used to identify the appropriate reference ballast specifications for CFL as described in this final rule. ANSI C78.901–2014 is readily available on ANSI's Web site at *http://webstore.ansi.org/.*

DOE incorporates by reference the test standard published by IES, titled "IES Guide to Lamp Seasoning," IES LM–54–12. IES LM–54–12 is an industry accepted test standard that specifies a method for seasoning CFLs prior to testing and is applicable to products sold in North America. The test procedures adopted in this final rule reference various sections of IES LM–54–12 that address seasoning of CFLs prior to testing. IES LM–54–12 is readily available on IES's Web site at *www.ies.org/store.*

DOE also incorporates by reference the test standard published by IES, titled "IES Approved Method for Life Testing of Single-Based Fluorescent Lamps," IES LM–65–14. IES LM–65–14 is an industry accepted test standard that specifies a method for measuring the time to failure of CFLs and is applicable to products sold in North America. The test procedures adopted in this final rule reference various sections of IES LM–65–14 that address test conditions and procedures for measuring time to failure and rapid cycle stress testing of CFLs. IES LM–65–14 is readily available on IES's Web site at *www.ies.org/store.*

DOE also incorporates by reference specific sections of the test standard published by IES, titled "IES Approved Method: Electrical and Photometric Measurements of Single-Based Fluorescent Lamps," IES LM–66–14. IES LM–66–14 is an industry accepted test standard that specifies a method for measuring electrical and photometric characteristics of CFLs and is applicable to products sold in North America. The test procedures adopted in this final rule reference various sections of IES LM–66–14 that address test conditions and procedures for taking electrical and photometric measurements of CFLs. IES LM–66–14 is readily available on IES's Web site at *www.ies.org/store.*

DOE also incorporates by reference the test standard published by IES, titled "IESNA Approved Method for Total Luminous Flux Measurement of Lamps Using an Integrating Sphere Photometer," IESNA LM–78–07. IESNA LM–78–07 is an industry accepted test standard that specifies a method for measuring lumen output in an integrated sphere and is applicable to products sold in North America. The test procedures adopted in this final rule reference sections of IESNA LM–78–07 that address measurements of lumen output. IESNA LM–78–07 is readily available on IES's Web site at *www.ies.org/store.*

DOE also incorporates by reference certain sections of the test standard published by IEC, titled "Household electrical appliances—Measurement of standby power," IEC Standard 62301 (Edition 2.0). IEC Standard 62301 (Edition 2.0) is an industry accepted test standard that describes measurements of electrical power consumption in standby mode, off mode, and network mode. The test procedures adopted in this final rule reference sections of IEC Standard 62301 (Edition 2.0) for testing standby mode power consumption of CFLs. IEC Standard 62301 (Edition 2.0) is readily available on ANSI's Web site at *https://webstore.iec.ch/home.*

DOE also incorporates by reference the test standard published by CIE, titled "Technical Report: Method of Measuring and Specifying Colour Rendering Properties of Light Sources," CIE 13.3–1995. CIE 13.3–1995 is an industry accepted test standard that specifies method of measuring and specifying color rendering properties of light sources based on resultant color shifts of test objects. The test procedures adopted in this final rule reference sections of CIE 13.3–1995 for testing CRI of CFLs. CIE 13.3–1995 is readily available on CIE's Web site at *http://www.techstreet.com/cie/.*

DOE incorporates by reference the test standard published by CIE, titled "Technical Report: Colorimetry," CIE 15:2004. CIE 15:2004 is an industry accepted test standard that summarizes colorimetric data. The test procedures adopted in this final rule reference sections of CIE 15:2004 for testing CCT of CFLs. CIE 15:2004 is readily available on CIE's Web site at *http://www.techstreet.com/cie/.*

DOE removes previously incorporated reference to "ENERGY STAR Program Requirements for [Compact Fluorescent Lamps] CFLs, approved August 9, 2001." These provided specifications including test procedures for ENERGY STAR qualified CFLs. The test procedures adopted in this final rule no longer reference "ENERGY STAR Program Requirements for [Compact Fluorescent Lamps] CFLs, approved August 9, 2001."

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on August 11, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends parts 429 and 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.12 is amended by revising paragraph (f) to read as follows:

§ 429.12 General requirements applicable to certification reports.

* * * * *

(f) *Discontinued model filing.* When production of a basic model has ceased and it is no longer being sold or offered for sale by the manufacturer or private labeler, the manufacturer must report this discontinued status to DOE as part of the next annual certification report following such cessation. For each basic model, the report must include the information specified in paragraphs (b)(1) through (7) of this section, except that for integrated light-emitting diode lamps and for compact fluorescent lamps, the manufacturer must submit a full certification report, including all of the information required by paragraph (b) of this section and the product-specific information required by § 429.56(b)(2) or § 429.35(b)(2), respectively.

* * * * *

■ 3. Section 429.35 is revised to read as follows:

§ 429.35 Compact fluorescent lamps.

(a) *Determination of Represented Value.* Manufacturers must determine represented values, which include the certified ratings, for each basic model of compact fluorescent lamp by testing, in conjunction with the following sampling provisions:

(1) *Units to be tested.* (i) The requirements of § 429.11(a) are applicable except that the sample must be comprised of production units; and

(ii)(A) For each basic model of integrated compact fluorescent lamp, the minimum number of units tested shall be no less than 10 units when testing for the initial lumen output, input power, initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, lifetime, CCT, CRI, power factor, and standby mode power. If more than 10 units are tested as part of the sample, the total number of units must be a multiple of 2. The same sample of units must be used as the basis for representations for initial lumen output, input power, initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, lifetime, CCT, CRI, power factor, and standby mode power. No less than three units from the same sample of units must be used when testing for the start time. Exactly six unique units (*i.e.,* units that have not previously been tested under this paragraph (a)(1)(ii) but are representative of the same basic model tested under this paragraph (a)(1)(ii)) must be used for rapid cycle stress testing.

(B) For each basic model of non-integrated compact fluorescent lamp, the minimum number of units tested shall be no less than 10 units when testing for the initial lumen output, input power, initial lamp efficacy, lumen maintenance at 40 percent of lifetime, lifetime, CCT, and CRI. If more than 10 units are tested as part of the sample, the total number of units must be a multiple of 2. The same sample of units must be used as the basis for representations for initial lumen output, input power, initial lamp efficacy, lumen maintenance at 40 percent of lifetime, lifetime, CCT, and CRI.

(iii) For each basic model, a sample of sufficient size shall be randomly selected and tested to ensure that:

(A) Represented values of initial lumen output, initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, CRI, power factor, or other measure of energy consumption of a basic model for which consumers would favor higher values must be less than or equal to the lower of:

(*1*) The mean of the sample,

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

Where:

$\bar{x}$ is the sample mean,
n is the number of units in the sample, and
x_i is the ith unit;

Or,

(*2*) The lower 97.5-percent confidence limit (LCL) of the true mean divided by 0.95,

$$LCL = \bar{x} - t_{0.975}\left(\frac{s}{\sqrt{n}}\right)$$

Where:

$\bar{x}$ is the sample mean of the characteristic value;
s is the sample standard deviation;
n is the number of units in the sample, and
$t_{0.975}$ is the t statistic for a 97.5% one-tailed confidence interval with n-1 degrees of freedom (from appendix A of this subpart).

(B) Represented values of input power, standby mode power, start time or other measure of energy consumption of a basic model for which consumers would favor lower values must be greater than or equal to the higher of:

(*1*) The mean of the sample,

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

Where:

$\bar{x}$ is the sample mean,
n is the number of units in the sample, and
x_i is the ith unit;

Or,

(*2*) The upper 97.5-percent confidence limit (UCL) of the true mean divided by 1.05,

$$UCL = \bar{x} + t_{0.975}\left(\frac{s}{\sqrt{n}}\right)$$

Where:

$\bar{x}$ is the sample mean of the characteristic value;
s is the sample standard deviation;
n is the number of units in the sample, and
$t_{0.975}$ is the t statistic for a 97.5% one-tailed confidence interval with n-1 degrees of freedom (from appendix A of this subpart).

(C) The represented value of CCT must be equal to the mean of the sample,

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

Where:

$\bar{x}$ is the sample mean,
n is the number of units in the sample, and
x_i is the ith unit.

(D) The represented value of lifetime must be equal to or less than the median time to failure of the sample (calculated as the arithmetic mean of the time to failure of the two middle sample units when the numbers are sorted in value order).

(E) The represented value of the results of rapid cycle stress testing must be

(*1*) Expressed in the number of surviving units and

(*2*) Based on a lifetime value that is equal to or greater than the represented value of lifetime.

(2) The represented value of life (in years) of a compact fluorescent lamp must be calculated by dividing the represented lifetime of a compact fluorescent lamp as determined in (a)(1) of this section by the estimated annual operating hours as specified in 16 CFR 305.15(b)(3)(iii).

(3) The represented value of the estimated annual energy cost for a compact fluorescent lamp, expressed in dollars per year, must be the product of the input power in kilowatts, an electricity cost rate as specified in 16 CFR 305.15(b)(1)(ii), and an estimated average annual use as specified in 16 CFR 305.15(b)(1)(ii).

(4) For compliance with standards specified in § 430.32(u) as it appeared in 10 CFR parts 200–499 edition revised as of January 1, 2016, initial lamp efficacy may include a 3 percent tolerance added to the value determined in accordance with paragraph (a)(1)(iii)(A) of this section.

(5) The represented value of lumen maintenance at 40 percent of lifetime must be based on a lifetime value that is equal to or greater than the represented value of lifetime.

(6) Estimated values may be used for representations when initially testing a new basic model or when new/additional testing is required.

(b) *Certification reports.* (1) The requirements of § 429.12 are applicable to compact fluorescent lamps; and

(2) Values reported in certification reports are represented values. Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information:

(i) For each basic model of medium base CFL when certifying compliance to the standards in § 430.32(u) as it appeared in 10 CFR parts 200–499 edition revised as of January 1, 2016, the testing laboratory's ILAC accreditation body's identification number or other approved identification assigned by the ILAC accreditation body, the date of first manufacture, the seasoning time in hours (h), the initial lumen output in lumens (lm), the input power in watts (W), the initial lamp efficacy in lumens per watt (lm/W), the number of sample units replaced during the seasoning period within each unique sample set used in determining the represented value, the lumen maintenance at 40 percent of lifetime in percent (%) (and whether value is estimated), the lifetime in hours (h) (and whether value is estimated), life in years (and whether value is estimated), the lumen maintenance at 1,000 hours in percent (%), and the results of rapid cycle stress testing in number of units passed. or the initial certification of new basic models or any subsequent certification based on new testing, estimates of lifetime, life, lumen maintenance at 40 percent of lifetime, and rapid cycle stress test surviving units may be reported (if indicated in the certification report) until testing is complete. When reporting estimated values, the certification report must specifically describe the prediction method, which must be generally representative of the methods specified in appendix W. Manufacturers are required to maintain records in accordance with § 429.71 of the development of all estimated values and any associated initial test data.

(ii) For each basic model of integrated CFL when certifying compliance with general service lamp energy conservation standards, the testing laboratory's ILAC accreditation body's identification number or other identification assigned by the ILAC accreditation body, the date of first manufacture, a statement that the compact fluorescent lamp is integrated, the seasoning time in hours (h), the initial lumen output in lumens (lm), the input power in watts (W), the initial lamp efficacy in lumens per watt (lm/W), the CCT in kelvin (K), CRI, the lumen maintenance at 1,000 hours in percent (%), the lumen maintenance at 40 percent of lifetime in percent (%) (and whether value is estimated), start time in milliseconds, power factor, standby mode energy consumption in watts (W), the results of rapid cycle stress testing in number of units passed, the lifetime in hours (h) (and whether value is estimated), life in years (and whether value is estimated), and the number of sample units replaced during the seasoning period within the sample set used in determining the represented value. Estimates of lifetime, life, lumen maintenance at 40 percent of lifetime, and rapid cycle stress test surviving units may be reported (if indicated in the certification report) until testing is complete. When reporting estimated values, the certification report must specifically describe the prediction method, which must be generally representative of the methods specified in appendix W. Manufacturers are required to maintain records in accordance with § 429.71 of the development of all estimated values and any associated initial test data.

(iii) For each basic model of non-integrated CFL when certifying compliance with general service lamp energy conservation standards, the testing laboratory's ILAC accreditation body's identification number or other identification assigned by the ILAC accreditation body, the date of first manufacture, a statement that the compact fluorescent lamp is non-integrated, the initial lumen output in lumens (lm), the input power in watts (W), the initial lamp efficacy in lumens per watt (lm/W), the CCT in kelvin (K), CRI, the lumen maintenance at 40 percent of lifetime in percent (%) (and whether value is estimated), the lifetime in hours (h) (and whether value is estimated), and the number of sample units replaced during the seasoning period within each unique sample set used in determining the represented value. Estimates of lifetime and lumen maintenance at 40 percent of lifetime may be reported (if indicated in the certification report) until testing is complete. When reporting estimated values, the certification report must specifically describe the prediction method, which must be generally representative of the methods specified in appendix W. Manufacturers are required to maintain records in accordance with § 429.71 of the development of all estimated values and any associated initial test data.

(c) *Rounding requirements.* For represented values,

(1) Round input power to the nearest tenth of a watt.

(2) Round lumen output to three significant digits.

(3) Round initial lamp efficacy to the nearest tenth of a lumen per watt.

(4) Round lumen maintenance at 1,000 hours to the nearest tenth of a percent.

(5) Round lumen maintenance at 40 percent of lifetime to the nearest tenth of a percent.

(6) Round CRI to the nearest whole number.

(7) Round power factor to the nearest hundredths place.

(8) Round lifetime to the nearest whole hour.

(9) Round CCT to the nearest 100 kelvin (K).

(10) Round standby mode power to the nearest tenth of a watt; and

(11) Round start time to the nearest whole millisecond.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 4. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 5. Section 430.2 is amended by:

■ a. Adding in alphabetical order a definition for "compact fluorescent lamp";

■ b. Revising the definition of "correlated color temperature"; and

■ c. Adding in alphabetical order adefinition for "lifetime of a compact fluorescent lamp".

The additions and revision read as follows:

§ 430.2 Definitions.

* * * * *

Compact fluorescent lamp (CFL) means an integrated or non-integrated single-base, low-pressure mercury, electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light; the term does not include circline or U-shaped lamps.

* * * * *

Correlated color temperature (CCT) means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

* * * * *

Lifetime of a compact fluorescent lamp means the length of operating time between first use and failure of 50 percent of the sample units (as specified in § 429.35(a)(1) of this chapter), determined in accordance with the test procedures described in section 3.3 of appendix W to subpart B of this part.

* * * * *

■ 6. Section 430.3 is amended by:

■ a. Redesignating paragraphs (e)(8) through (19) as paragraphs (e)(9) through (20), respectively, and adding new paragraph (e)(8);

■ b. Removing "appendix R" in paragraphs (l)(1) and (2) and adding in its place "appendices R and W";

■ c. Redesignating paragraph (o)(9) as (o)(13), paragraph (o)(10) as (o)(14), paragraph (o)(11) as (o)(15), and paragraph (o)(12) as (o)(16), paragraph (o)(8) as (o)(10), and paragraph (o)(7) as (o)(8),;

■ d. Adding new paragraphs (o)(7), (9), (11), and (12);

■ e. Adding paragraph (p)(7); and

■ f. Removing paragraph (v).

The additions read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(e) * * *

(8) ANSI C78.901–2014, American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics, ANSI approved July 2, 2014; IBR approved for appendix W to subpart B.

* * * * *

(o) * * *

(7) IES LM–54–12, IES Guide to Lamp Seasoning, approved October 22, 2012; IBR approved for appendix W to subpart B, as follows:

(i) Section 4—Physical/Environmental Test Conditions;

(ii) Section 5—Electrical Test Conditions;

(iii) Section 6—Test Procedure Requirements: Section 6.1—Test Preparation; and

(iv) Section 6—Test Procedure Requirements, Section 6.2—Seasoning Test Procedures: Section 6.2.2.1—Discharge Lamps: Discharge Lamps except T5 fluorescent.

* * * * *

(9) IES LM–65–14, IES Approved Method for Life Testing of Single-Based Fluorescent Lamps, approved December 30, 2014; IBR approved for appendix W to subpart B, as follows:

(i) Section 4.0—Ambient and Physical Conditions;

(ii) Section 5.0—Electrical Conditions; and

(iii) Section 6.0—Lamp Test Procedures

* * * * *

(11) IES LM–66–14, (“IES LM–66”), IES Approved Method for the Electrical and Photometric Measurements of Single-Based Fluorescent Lamps, approved December 30, 2014; IBR approved for appendix W to subpart B, as follows:

(i) Section 4.0—Ambient and Physical Conditions;

(ii) Section 5.0—Power Source Characteristics; and

(iii) Section 6.0—Testing Procedures Requirements.

(12) IESNA LM–78–07, IESNA Approved Method for Total Luminous Flux Measurement of Lamps Using an Integrating Sphere Photometer, approved January 28, 2007; IBR approved for appendix W to subpart B.

* * * * *

(p) * * *

(7) IEC 62301, (“IEC 62301–W”), Household electrical appliances—Measurement of standby power, (Edition 2.0, 2011–01), Section 5—Measurements, IBR approved for appendix W to subpart B.

* * * * *

■ 7. Section 430.23 is amended by revising paragraph (y) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(y) *Compact fluorescent lamps.* (1) Measure initial lumen output, input power, initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime of a compact fluorescent lamp (as defined in 10 CFR 430.2), color rendering index (CRI), correlated color temperature (CCT), power factor, start time, standby mode energy consumption, and time to failure in accordance with appendix W of this subpart. Express time to failure in hours.

(2) Conduct the rapid cycle stress test in accordance with section 3.3 of appendix W of this subpart.

* * * * *

■ 8. Section 430.25 is revised to read as follows:

§ 430.25 Laboratory Accreditation Program.

The testing for general service fluorescent lamps, general service incandescent lamps (with the exception of lifetime testing), incandescent reflector lamps, compact fluorescent lamps, fluorescent lamp ballasts, and integrated light-emitting diode lamps must be conducted by test laboratories accredited by an Accreditation Body that is a signatory member to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA). A manufacturer’s or importer’s own laboratory, if accredited, may conduct the applicable testing.

■ 9. Appendix W to subpart B of part 430 is revised to read as follows:

Appendix W to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Compact Fluorescent Lamps

Note: Before February 27, 2017, any representations, including certifications of compliance, made with respect to the energy use or efficiency of medium base compact fluorescent lamps must be made in accordance with the results of testing pursuant either to this appendix, or to the applicable test requirements set forth in 10 CFR parts 429 and 430 as they appeared in the 10 CFR parts 200 to 499 annual edition revised as of January 1, 2016.

On or after February 27, 2017, any representations, including certifications of compliance (if required), made with respect to the energy use or efficiency of CFLs must be made in accordance with the results of testing pursuant to this appendix.

1. Scope:

1.1. Integrated compact fluorescent lamps.

1.1.1. This appendix specifies the test methods required to measure the initial lamp efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40 percent of lifetime, time to failure, power factor, correlated color temperature (CCT), color rendering index (CRI), and start time of an integrated compact fluorescent lamp.

1.1.2. This appendix describes how to conduct rapid cycle stress testing for integrated compact fluorescent lamps.

1.1.3. This appendix specifies test methods required to measure standby mode energy consumption applicable to integrated CFLs capable of operation in standby mode (as defined in § 430.2), such as those that can be controlled wirelessly.

1.2. Non-integrated compact fluorescent lamps.

1.2.1. This appendix specifies the test methods required to measure the initial lamp efficacy, lumen maintenance at 40 percent of lifetime, time to failure, CCT, and CRI for non-integrated compact fluorescent lamps.

2. Definitions:

2.1. *Ballasted adapter* means a ballast that is not permanently attached to a compact fluorescent lamp, has no consumer-replaceable components, and serves as an adapter by incorporating both a lamp socket and a lamp base.

2.2. *Hybrid compact fluorescent lamp* means a compact fluorescent lamp that incorporates one or more supplemental light sources of different technology.

2.3. *Initial lamp efficacy* means the lamp efficacy (as defined in § 430.2) at the end of the seasoning period, as calculated pursuant to section 3.2.2.9 of this appendix.

2.4. *Integrated compact fluorescent lamp* means an integrally ballasted compact fluorescent lamp that contains all components necessary for the starting and stable operation of the lamp, contains an ANSI standard base, does not include any replaceable or interchangeable parts, and is capable of being connected directly to a branch circuit through a corresponding ANSI standard lamp-holder (socket).

2.5. *Labeled wattage* means the highest wattage marked on the lamp and/or lamp packaging.

2.6. *Lumen maintenance* means the lumen output measured at a given time in the life of the lamp and expressed as a percentage of the measured initial lumen output.

2.7. *Measured initial input power* means the input power to the lamp, measured at the end of the lamp seasoning period, and expressed in watts (W).

2.8. *Measured initial lumen output* means the lumen output of the lamp measured at the end of the lamp seasoning period, expressed in lumens (lm).

2.9. *Non-integrated compact fluorescent lamp* means a compact fluorescent lamp that is not an integrated compact fluorescent lamp.

2.10. *Percent variability* means the result of dividing the difference between the maximum and minimum values by the average value for a contiguous set of separate time-averaged light output values spanning the specified time period. For a waveform of measured light output values, the time-averaged light output is computed over one full cycle of sinusoidal input voltage, as a moving average where the measurement interval is incremented by one sample for each successive measurement value.

2.11. *Power factor* means the measured input power (watts) divided by the product of the measured RMS input voltage (volts) and the measured RMS input current (amps).

2.12. *Rated input voltage* means the voltage(s) marked on the lamp as the intended operating voltage or, if not marked on the lamp, 120 V.

2.13. *Start plateau* means the first 100 millisecond period of operation during which the percent variability does not exceed 5 percent.

2.14. *Start time* means the time, measured in milliseconds, between the application of power to the compact fluorescent lamp and the beginning of the start plateau.

2.15. *Time to failure* means the time elapsed between first use and the point at which the compact fluorescent lamp (for a hybrid CFL, the primary light source) ceases to produce measureable lumen output.

3. Active Mode Test Procedures

3.1. General Instructions.

3.1.1. In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over any materials incorporated by reference.

3.1.2. Maintain lamp operating orientation throughout seasoning and testing, including storage and handling between tests.

3.1.3. Season CFLs prior to photometric and electrical testing in accordance with sections 4, 5, 6.1, and 6.2.2.1 of IES LM–54–12 (incorporated by reference, see § 430.3). Season the CFL for a minimum of 100 hours in accordance with section 6.2.2.1 of IES LM–54–12. During the 100 hour seasoning period, cycle the CFL (operate the lamps for 180 minutes, 20 minutes off) as specified in section 6.4 of IES LM–65–14 (incorporated by reference; see § 430.3).

3.1.3.1. Unit operating time during seasoning may be counted toward time to failure, lumen maintenance at 40 percent of lifetime of a compact fluorescent lamp (as defined in § 430.2), and lumen maintenance at 1,000 hours if the required operating cycle and test conditions for time to failure testing per section 3.3.1 of this appendix are satisfied.

3.1.3.2. If a lamp breaks, becomes defective, fails to stabilize, exhibits abnormal behavior (such as swirling), or stops producing light prior to the end of the seasoning period, the lamp must be replaced with a new unit. If a lamp exhibits one of the conditions listed in the previous sentence after the seasoning period, the lamp's measurements must be included in the sample. Record number of lamps replaced, if any.

3.1.4. Conduct all testing with the lamp operating at labeled wattage. This requirement applies to all CFLs, including those that are dimmable or multi-level.

3.1.5. Operate the CFL at the rated input voltage throughout testing. For a CFL with multiple rated input voltages including 120 volts, operate the CFL at 120 volts. If a CFL with multiple rated input voltages is not rated for 120 volts, operate the CFL at the highest rated input voltage.

3.1.6. Test CFLs packaged with ballasted adapters or designed exclusively for use with ballasted adapters as non-integrated CFLs, with no ballasted adapter in the circuit.

3.1.7. Conduct all testing of hybrid CFLs with all supplemental light sources in the lamp turned off, if possible. Before taking measurements, verify that the lamp has stabilized in the operating mode that corresponds to its primary light source.

3.2. Test Procedures for Determining Initial Lamp Efficacy, Lumen Maintenance, CCT, CRI, and Power Factor.

Determine initial lamp efficacy, lumen maintenance at 40 percent of lifetime of a compact fluorescent lamp (as defined in in § 430.2), CCT, and CRI for integrated and non-integrated CFLs. Determine lumen maintenance at 1,000 hours and power factor for integrated CFLs only.

3.2.1. Test Conditions and Setup

3.2.1.1. Test half of the units in the sample in the base up position, and half of the units in the base down position; if the position is restricted by the manufacturer, test the units in the manufacturer-specified position.

3.2.1.2. Establish ambient conditions, power supply, auxiliary equipment, circuit setup, lamp connections, and instrumentation in accordance with the specifications in sections (and corresponding subsections) 4.0, 5.0 and 6.0 of IES LM–66–14 (incorporated by reference; see § 430.3), except maintain ambient temperature at 25 ± 1 °C (77 ± 1.8 °F).

3.2.1.3. Non-integrated CFLs must adhere to the reference ballast requirements in section 5.2 of IES LM–66 (incorporated by reference; see § 430.3).

3.2.1.3.1. Test non-integrated lamps rated for operation on and having reference ballast characteristics for either low frequency or high frequency circuits (*e.g.*, many preheat start lamps) at low frequency.

3.2.1.3.2. For low frequency operation, test non-integrated lamps rated for operation on either preheat start (starter) or rapid start (no starter) circuits on preheat.

3.2.1.3.3. Operate non-integrated CFLs not listed in ANSI C78.901–2014 (incorporated by reference; see § 430.3) using the following reference ballast settings:

3.2.1.3.3.1. Operate 25–28 W, T5 twin 2G11-based lamps that are lower wattage replacements of 40 W, T5 twin 2G11-based lamps using the following reference ballast settings: 60 Hz, 400 volts, 0.270 amps, and 1240 ohms.

3.2.1.3.3.2. Operate 14–15 W, T4 quad G24q-2-based lamps that are lower wattage replacements of 18 W, T4 quad G24q-2-based lamps using the following reference ballast settings: 60 Hz, 220 volts, 0.220 amps, and 815 ohms.

3.2.1.3.3.3. Operate 21 W, T4 quad G24q-3-based lamps that are lower wattage replacements of 26 W, T4 quad G24q-3-based lamps using the following reference ballast settings: 60 Hz, 220 volts, 0.315 amps, and 546 ohms.

3.2.1.3.3.4. Operate 21 W, T4 quad G24d-3-based lamps that are lower wattage replacements of 26 W, T4 quad G24d-3-based lamps using the following reference ballast settings: 60 Hz, 220 volts, 0.315 amps, and 546 ohms.

3.2.1.3.3.5. Operate 21 W, T4 multi (6) GX24q-3-based lamps that are lower wattage replacements of 26 W, T4 multi (6) GX24q-3-based lamps using the following reference ballast settings: 60 Hz, 220 volts, 0.315 amps, and 546 ohms.

3.2.1.3.3.6. Operate 27–28 W, T4 multi (6) GX24q-3-based lamps that are lower wattage replacements of 32 W, T4 multi (6) GX24q-3-based lamps using the following reference ballast settings: 20–26 kHz, 200 volts, 0.320 amps, and 315 ohms.

3.2.1.3.3.7. Operate 33–38 W, T4 multi (6) GX24q-4-based lamps that are lower wattage replacements of 42 W, T4 multi (6) GX24q-4-based lamps using the following reference ballast settings: 20–26 kHz, 270 volts, 0.320 amps, and 420 ohms.

3.2.1.3.3.8. Operate 10 W, T4 square GR10q-4-based lamps using the following reference ballast settings: 60 Hz, 236 volts, 0.165 amps, and 1,200 ohms.

3.2.1.3.3.9. Operate 16 W, T4 square GR10q-4-based lamps using the following reference ballast settings: 60 Hz, 220 volts, 0.195 amps, and 878 ohms.

3.2.1.3.3.10. Operate 21 W, T4 square GR10q-4-based lamps using the following reference ballast settings: 60 Hz, 220 volts, 0.260 amps, and 684 ohms.

3.2.1.3.3.11. Operate 28 W, T6 square GR10q-4-based lamps using the following reference ballast settings: 60 Hz, 236 volts, 0.320 amps, and 578 ohms.

3.2.1.3.3.12. Operate 38 W, T6 square GR10q-4-based lamps using the following reference ballast settings: 60 Hz, 236 volts, 0.430 amps, and 439 ohms.

3.2.1.3.3.13. Operate 55 W, T6 square GRY10q-3-based lamps using the following reference ballast settings: 60 Hz, 236 volts, 0.430 amps, and 439 ohms.

3.2.1.3.3.14. For all other lamp designs not listed in ANSI C78.901–2014 (incorporated by reference; see § 430.3) or section 3.2.1.3.3 of this appendix:

3.2.1.3.3.14.1. If the lamp is a lower wattage replacement of a lamp with specifications in ANSI C78.901–2014, use the reference ballast characteristics of the corresponding higher wattage lamp replacement in ANSI C78.901–2014.

3.2.1.3.3.14.2. For all other lamps, use the reference ballast characteristics in ANSI C78.901–2014 for a lamp with the most similar shape, diameter, and base specifications, and next closest wattage.

3.2.2. Test Methods, Measurements, and Calculations

3.2.2.1. Season CFLs. (See section 3.1.3 of this appendix.)

3.2.2.2. Stabilize CFLs as specified in section 6.2.1 of IES LM–66 (incorporated by reference; see § 430.3).

3.2.2.3. Measure the input power (in watts), the input voltage (in volts), and the input current (in amps) as specified in section 5.0 of IES LM–66 (incorporated by reference; see § 430.3).

3.2.2.4. Measure initial lumen output as specified in section 6.3.1 of IES LM–66 (incorporated by reference; see § 430.3) and in accordance with IESNA LM–78–07 (incorporated by reference; see § 430.3).

3.2.2.5. Measure lumen output at 1,000 hours as specified in section 6.3.1 of IES LM–66 (incorporated by reference; see § 430.3) and in accordance with IESNA LM–78–07 (incorporated by reference; see § 430.3).

3.2.2.6. Measure lumen output at 40 percent of lifetime of a compact fluorescent lamp (as defined in 10 CFR 430.2) as specified in section 6.3.1 of IES LM–66 (incorporated by reference; see § 430.3) and in accordance with IESNA LM–78–07 (incorporated by reference; see § 430.3).

3.2.2.7. Determine CCT as specified in section 6.4 of IES LM–66 (incorporated by reference; see § 430.3) and in accordance with CIE 15 (incorporated by reference; see § 430.3).

3.2.2.8. Determine CRI as specified in section 6.4 of IES LM–66 (incorporated by reference; see § 430.3) and in accordance with CIE 13.3 (incorporated by reference; see § 430.3).

3.2.2.9. Determine initial lamp efficacy by dividing measured initial lumen output by the measured initial input power.

3.2.2.10. Determine lumen maintenance at 1,000 hours by dividing measured lumen output at 1,000 hours by the measured initial lumen output.

3.2.2.11. Determine lumen maintenance at 40 percent of lifetime of a compact fluorescent lamp (as defined in § 430.2) by dividing measured lumen output at 40 percent of lifetime of a compact fluorescent lamp (as defined in § 430.2) by the measured initial lumen output.

3.2.2.12. Determine power factor by dividing the measured input power (watts) by the product of measured RMS input voltage (volts) and measured RMS input current (amps).

3.3. Test Method for Time to Failure and Rapid Cycle Stress Test.

Determine time to failure for integrated and non-integrated CFLs. Conduct rapid cycle stress testing for integrated CFLs only. Disregard section 3.0 of IES LM–65–14.

3.3.1. Test Conditions and Setup

3.3.1.1. Test half of the units in the base up position and half of the units in the base down position; if the position is restricted by the manufacturer, test in the manufacturer-specified position.

3.3.1.2. Establish the ambient and physical conditions and electrical conditions in accordance with the specifications in sections 4.0 and 5.0 of IES LM–65–14 (incorporated by reference; see § 430.3). Do not, however, test lamps in fixtures or luminaires.

3.3.1.3. Non-integrated CFLs must adhere to ballast requirements as specified in section 3.2.1.3 of this appendix.

3.3.2. Test Methods and Measurements

3.3.2.1. Season CFLs. (See section 3.1.3 of this appendix.)

3.3.2.2. Measure time to failure of CFLs as specified in section 6.0 of IES LM–65–14 (incorporated by reference; see § 430.3).

3.3.2.3. Conduct rapid cycle stress testing of integrated CFLs as specified in section 6.0 of IES LM–65–14 (incorporated by reference; see § 430.3), except cycle the lamp continuously with each cycle consisting of one 5-minute ON period followed by one 5-minute OFF period.

3.4. Test Method for Start Time.

Determine start time for integrated CFLs only.

3.4.1. Test Conditions and Setup

3.4.1.1. Test all units in the base up position; if the position is restricted by the manufacturer, test units in the manufacturer-specified position.

3.4.1.2. Establish the ambient conditions, power supply, auxiliary equipment, circuit setup, lamp connections, and instrumentation in accordance with the specifications in sections 4.0 and 5.0 of IES LM–66 (incorporated by reference; see § 430.3), except maintain ambient temperature at 25 ± 1 °C (77 ± 1.8 °F).

3.4.2. Test Methods and Measurement

3.4.2.1. Season CFLs. (See section 3.1.3 of this appendix.)

3.4.2.2. After seasoning, store units at 25 ± 5 °C ambient temperature for a minimum of 16 hours prior to the test, after which the ambient temperature must be 25 ± 1 °C for a minimum of 2 hours immediately prior to the test. Any units that have been off for more than 24 hours must be operated for a minimum of 3.0 hours and then be turned off for 16 to 24 hours prior to testing.

3.4.2.3. Connect multichannel oscilloscope with data storage capability to record input voltage to CFL and light output. Set oscilloscope to trigger at 10 V lamp input voltage. Set oscilloscope vertical scale such that vertical resolution is 1 percent of measured initial light output or finer. Set oscilloscope to sample the light output waveform at a minimum rate of 2 kHz.

3.4.2.4. Operate the CFL at the rated voltage and frequency.

3.4.2.5. Upon the commencement of start time testing, record sampled light output until start plateau has been determined.

3.4.2.6. Calculate the time-averaged light output value at least once every millisecond where the time-averaged light output is computed over one full cycle of sinusoidal input voltage, as a moving average where the measurement interval is incremented by one sample for each successive measurement value.

3.4.2.7. Determine start time.

4. Standby Mode Test Procedure

Measure standby mode energy consumption for only integrated CFLs that are capable of operating in standby mode. The standby mode test method in this section may be completed before or after the active test method for determining lumen output, input power, CCT, CRI, and power factor in section 3 of this appendix. The standby mode test method in this section must be completed before the active mode test method for determining time to failure in section 3.3 of this appendix. The standby mode test method must be completed in accordance with applicable provisions in section 3.1.

4.1. *Test Conditions and Setup*

4.1.1. Position half of the units in the sample in the base up position and half of the units in the base down position; if the position is restricted by the manufacturer, test units in the manufacturer-specified position.

4.1.2. Establish the ambient conditions (including air flow), power supply, electrical settings, and instrumentation in accordance with the specifications in sections 4.0, 5.0 and 6.0 of IES LM–66 (incorporated by reference; see § 430.3), except maintain ambient temperature at 25 ± 1 °C (77 ± 1.8 °F).

4.2. *Test Methods, Measurements, and Calculations*

4.2.1. Season CFLs. (See section 3.1.3 of this appendix.)

4.2.2. Connect the integrated CFL to the manufacturer-specified wireless control network (if applicable) and configure the integrated CFL in standby mode by sending a signal to the integrated CFL instructing it to have zero light output. The integrated CFL must remain connected to the network throughout the entire duration of the test.

4.2.3. Stabilize the integrated CFL prior to measurement as specified in section 5 of IEC 62301–W (incorporated by reference; see § 430.3).

4.2.4. Measure the standby mode energy consumption in watts as specified in section 5 of IEC 62301–W (incorporated by reference; see § 430.3).

■ 10. Section 430.32 is amended by revising paragraph (u) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(u) *Compact fluorescent lamps.* (1) Medium Base Compact Fluorescent Lamps. A bare or covered (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, must meet the following requirements:

Factor	Requirements
Labeled Wattage (Watts) & Configuration *	Measured initial lamp efficacy (lumens per watt) must be at least:
Bare Lamp:	
Labeled Wattage < 15	45.0.
Labeled Wattage ≥ 15	60.0.
Covered Lamp (no reflector):	
Labeled Wattage < 15	40.0.
15 ≤ Labeled Wattage < 19	48.0.
19 ≤ Labeled Wattage < 25	50.0.
Labeled Wattage ≥ 25	55.0.
Lumen Maintenance at 1,000 Hours	≥90.0%.
Lumen Maintenance at 40 Percent of Lifetime **	≥80.0%.
Rapid Cycle Stress Test	Each lamp must be cycled once for every 2 hours of lifetime.** At least 5 lamps must meet or exceed the minimum number of cycles.
Lifetime **	≥6,000 hours.

* Use labeled wattage to determine the appropriate efficacy requirements in this table; do not use measured wattage for this purpose.

** Lifetime refers to lifetime of a compact fluorescent lamp as defined in 10 CFR 430.2.

(2) [Reserved].

* * * * *

[FR Doc. 2016–19967 Filed 8–26–16; 8:45 am]

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